Department for Education | Department of Health

Special educational needs and disability code of practice: 0 to 25 years

Statutory guidance for organisations which work with and support children and young people who have special educational needs or disabilities

January 2015

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Foreword

From the Parliamentary Under-Secretary of State for Health and the Parliamentary Under-Secretary of State for Children and Families

Our vision for children with special educational needs and disabilities is the same as for all children and young people – that they achieve well in their early years, at school and in college, and lead happy and fulfilled lives.

This new Special Educational Needs and Disability Code of Practice will play a vital role in underpinning the major reform programme.

For children and young people this means that their experiences will be of a system which is less confrontational and more efficient. Their special educational needs and disabilities will be picked up at the earliest point with support routinely put in place quickly, and their parents will know what services they can reasonably expect to be provided. Children and young people and their parents or carers will be fully involved in decisions about their support and what they want to achieve. Importantly, the aspirations for children and young people will be raised through an increased focus on life outcomes, including employment and greater independence.

Local authorities and their local health partners have been working together to prepare for the new arrangements, to jointly plan and commission services for children and young people who have special educational needs or are disabled. Those with more complex needs will have an integrated assessment and where

appropriate a single Education, Health and Care plan for their support.

The Code of Practice is the product of extensive consultation, and draws on the experience of pathfinder local authorities which have been piloting new approaches with local communities. We have listened to a wide range of individuals and groups and the result is a Code which will help everyone working with children and young people with special educational needs and disability to secure for them the outcomes from education, health and social care which will make the biggest difference to their lives.





POULTER EDWARD TIMPSON
Parliamentary Under-Secretary of State for Health

DR DAN
Parliamentary Under-Secretary of State for Children and Families

Introduction

About this guidance

i. This Code of Practice provides statutory guidance on duties, policies and procedures relating to Part 3 of the Children and Families Act 2014 and associated regulations and applies to England. It relates to children and young people with special educational needs (SEN) and disabled children and young people. A 'young person' in this context is a person over compulsory school age and under 25. Compulsory school age ends on the last Friday of June in the academic year in which they become 16. For ease of reference, young people are referred to in this Code of Practice as 'over 16'.

In this Code of Practice, where the text uses the word '**must**' it refers to a statutory requirement under primary legislation, regulations or case law.

The bodies listed in paragraph iv. **must** have regard to the Code of Practice. This means that whenever they are taking decisions they **must** give consideration to what the Code says. They cannot ignore it. They **must** fulfil their statutory duties towards children and young people with SEN or disabilities in the light of the guidance set out in it. They **must** be able to demonstrate in their arrangements for children and young people with SEN or disabilities that they are fulfilling their statutory duty to have regard to the Code. So, where the text uses the word 'should' it means that the

guidance contained in this Code **must** be considered and that those who **must** have regard to it will be expected to explain any departure from it.

Expiry or review date

ii. This guidance will be kept under review and updated when necessary.

To which legislation does this guidance refer?

iii. This guidance refers to Part 3 of the Children and Families Act 2014 and associated regulations. The regulations associated with the Children and Families Act 2014 are:

- The Special Educational Needs and Disability Regulations 2014
- The Special Educational Needs (Personal Budgets) Regulations 2014
- The Special Educational Needs and Disability (Detained Persons) Regulations 2015
- The Children and Families Act 2014 (Transitional and Saving Provisions)(No 2) Order 2014

Who must have regard to this guidance?

iv. This Code of Practice is statutory guidance for the following organisations:

- local authorities (education, social care and relevant housing and employment and other services)
- the governing bodies of schools, including non-maintained special schools •

the governing bodies of further education colleges and sixth form colleges

- the proprietors of academies (including free schools, university technical colleges and studio schools)
- the management committees of pupil referral units
- independent schools and independent specialist providers approved under Section 41 of the Children and Families Act 2014
- all early years providers in the maintained, private, voluntary and independent sectors that are funded by the local authority
- the National Health Service Commissioning Board
- clinical commissioning groups (CCGs)
- NHS Trusts

• NHS Foundation Trusts

• Local Health Boards

• Youth Offending Teams and relevant youth custodial establishments • The First-tier Tribunal (Special Educational Needs and Disability) (see v.)

The First-tier Tribunal (Special Educational Needs and Disability)

v. When considering an appeal from a parent or young person the First-tier Tribunal (Special Educational Needs and Disability) ('the Tribunal') **must** have regard to this Code of Practice. The Tribunal will expect local authorities, early education settings, schools and colleges to be able to explain any departure from the Code, where it is relevant to the case it is considering.

Changes from the SEN Code of Practice (2001)

vi. The main changes from the SEN Code of Practice (2001) reflect the changes introduced by the Children and Families Act 2014. These are:

• 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 and social care

• It includes guidance on publishing a Local Offer of support for children and young people with SEN or 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 a 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

- There is new guidance on supporting children and young people with SEN who are in youth custody.

Implementation of the Code of Practice

Implementation

vii. From 1 September 2014 the majority of Part 3 of the Children and Families Act 2014, its associated regulations and this Code of Practice will be in force, subject to any transitional arrangements.

viii. From 1 September 2014 all the organisations listed in paragraph iv. **must** have regard to this Code of Practice.

ix. Subject to any transitional arrangements made, from that date the following guidance will cease to have effect:

- SEN Code of Practice (2001)

- Inclusive Schooling (2001)

- Section 139A Learning Difficulty Assessments Statutory Guidance (2013)

Transitional arrangements

x. From 1 September 2014 transitional arrangements will be in place to support the changeover from the current system to the new system in a phased and ordered way. These arrangements, which are set out in a statutory transitional order and accompanied by transitional guidance, will facilitate the transfer of those with statements to EHC plans. They ensure that during the transition period local authorities must continue to comply with elements of the Education Act 1996 in relation to children with statements, and the Learning and Skills Act 2000 in relation to young people who have had Learning Difficulty Assessments and remain in education or training (provided they still have learning difficulties).

xi. The legal test of when a child or young person requires an EHC plan remains the same as that for a statement under the Education Act 1996. Therefore, it is expected that all those who have a statement and who would have continued to have one under the current system, will be transferred to an EHC plan – no-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing. Similarly, local authorities have undertaken LDAs for young people either because they had a statement at school or because, in the opinion of the local authority, they are likely to need additional support as part of their further education or training and would benefit from an LDA to identify their learning needs and the provision required to meet those needs. Therefore, the expectation is that young people who are currently receiving support as a result of an LDA and remain in further education or training during the transition period, who request and need an EHC plan, will be issued with one.

xii. Guidance on the provisions in the Children and Families Act 2014 relating to those in youth custody, which came into force in April 2015, is set out in Chapter 10.

Special educational needs (SEN)

xiii. A child or young person has SEN if they have a learning difficulty or disability which calls for special educational provision to be made for him or her.

xiv. A child of compulsory school age or a young person has a learning difficulty or disability if he or she:

- has a significantly greater difficulty in learning than the majority of others of the same age, or

- has a disability which prevents or hinders him or her from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions

xv. For children aged two or more, special educational provision is educational or training provision that is additional to or different from that made generally for other children or young people of the same age by mainstream schools, maintained nursery schools, mainstream post-16 institutions or by relevant early years providers. For a child under two years of age, special educational provision means educational provision of any kind.

xvi. A child under compulsory school age has special educational needs if he or she is likely to fall within the definition in paragraph xiv. above when they reach compulsory school age or would do so if special educational provision was not made for them (Section 20 Children and Families Act 2014).

xvii. Post-16 institutions often use the term learning difficulties and disabilities (LDD). The term SEN is used in this Code across the 0-25 age range but includes LDD.

Disabled children and young people

xviii. Many children and young people who have SEN may have a disability under the Equality Act 2010 – that is '…a physical or mental impairment which has a long-term and substantial adverse effect on their ability to carry out normal day-to-day activities'. This definition provides a relatively low threshold and includes more children than many realise: 'long-term' is defined as 'a year or more' and 'substantial' is defined as 'more than minor or trivial'. This definition includes sensory impairments such as those affecting sight or hearing, and long-term health conditions such as asthma, diabetes, epilepsy, and cancer. Children and young people with such conditions do not necessarily have SEN, but there is a significant overlap between disabled children and young people and those with SEN. Where a disabled child or young person requires special educational provision they will also be covered by the SEN definition.

xix. The Equality Act 2010 sets out the legal obligations that schools, early years providers, post-16 institutions, local authorities and others have towards disabled children and young people:

- They **must not** directly or indirectly discriminate against, harass or victimise disabled children and young people

- They **must not** discriminate for a reason arising in consequence of a child or young person's disability

- They **must** make reasonable adjustments, including the provision of auxiliary aids and services, to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers. This duty is anticipatory – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage

- Public bodies, including further education institutions, local authorities, maintained schools, maintained nursery schools, academies and free schools are covered by the public sector equality duty and, when carrying out their functions, **must** have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non disabled children and young people. Public bodies also have specific duties under the public sector equality duty and **must** publish information to

demonstrate their compliance with this general duty and **must** prepare and publish objectives to achieve the core aims of the general duty. Objectives **must** be specific and measurable. The general duty also applies to bodies that are not public bodies but that carry out public functions. Such bodies include providers of relevant early years education, non-maintained special schools, independent specialist providers and others making provision that is funded from the public purse.

xx. The duties cover discrimination in the provision of services and the provision of education, including admissions and exclusions. All providers **must** make reasonable adjustments to procedures, criteria and practices and by the provision of auxiliary aids and services. Most providers **must** also make reasonable adjustments by making physical alterations. Schools and local authority education functions are not covered by this last duty, but they **must** publish accessibility plans (and local authorities, accessibility strategies) setting out how they plan to increase access for disabled pupils to the curriculum, the physical environment and to information.

xxi. School governing bodies and proprietors **must** also publish information about the arrangements for the admission of disabled children, the steps taken to prevent disabled children being treated less favourably than others, the facilities provided to assist access of disabled children, and their accessibility plans.

xxii. Where a child or young person is covered by SEN and disability legislation, reasonable adjustments and access arrangements should be considered as part of SEN planning and review. Where school governors are publishing information about

their arrangements for disabled children and young people, this should be brought together with the information required under the Children and Families Act 2014.

xxiii. Here, and throughout this Code the term ‘parent’ includes all those with parental responsibility, including parents and those who care for the child.

Related legislation and guidance

xxiv. Where appropriate, references are made in this Code to other relevant legislation. The Code does not give guidance in relation to that legislation but signals where it can be found in the References section at the end of this Code.

xxv. Organisations may find it helpful to consider the following related guidance:

- **Working Together to Safeguard Children (2013):** Statutory guidance from the Department for Education which sets out what is expected of organisations and individuals to safeguard and promote the welfare of

children

- **The Children Act 1989 Guidance and Regulations Volume 2 (Care Planning Placement and Case Review)** and **Volume 3 (Planning Transition to Adulthood for Care Leavers):** Guidance setting out the responsibilities of local authorities towards looked after children and care leavers

- **Equality Act 2010: Advice for schools:** Non-statutory advice from the Department for Education, produced to help schools understand how the Equality Act affects them and how to fulfil their duties under the Act

- **Reasonable adjustments for disabled pupils (2012):** Technical guidance from the Equality and Human Rights Commission

- **Supporting pupils at school with medical conditions (2014):** statutory guidance from the Department for Education

- **The Mental Capacity Act Code of Practice: Protecting the vulnerable (2005)**

1 Principles

What this chapter covers

Section19 of the Children and Families Act 2014 sets out the principles underpinning the legislation and the guidance in this Code of Practice. This chapter sets out those principles and how they are reflected in the chapters that follow.

Relevant legislation

Section 19 of the Children and Families Act 2014

Principles underpinning this Code of Practice

1.1 Section 19 of the Children and Families Act 2014 makes clear that local authorities, in carrying out their functions under the Act in relation to disabled children and young people

and those with special educational needs (SEN), **must** have regard to:

- the views, wishes and feelings of the child or young person, and the child's parents
- the importance of the child or young person, and the child's 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 the child's 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

1.2 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

The principles in practice

Participating in decision making

1.3 Local authorities **must** ensure that children, their parents and young people are involved in discussions and decisions about their individual support and about local provision.

1.4 Early years providers, schools and colleges should also take steps to ensure that young people and parents are actively supported in contributing to needs assessments, developing and reviewing Education, Health and Care (EHC) plans.

Specifically, local authorities **must**

- ensure the child's parents or the young person are fully included in the EHC needs assessment process from the start, are fully aware of their opportunities to offer views and information, and are consulted about the content of the plan (Chapter 9)

- consult children with SEN or disabilities, and their parents and young people with SEN or disabilities when reviewing local SEN and social care provision (Chapter 4)

- consult them in developing and reviewing their Local Offer (Chapter 4)

- make arrangements for providing children with SEN or disabilities, and their parents, and young people with SEN or disabilities with advice and information about matters relating to SEN and disability (Chapter 2)

1.5 Clinical Commissioning Groups (CCGs), NHS Trusts or NHS Foundation Trusts who are of the opinion that a child under compulsory school age has or probably has SEN or a disability **must** give the child's parents the opportunity to discuss their opinion with them before informing the local authority (see paragraph 1.16).

1.6 Children have a right to receive and impart information, to express an opinion and to have that opinion taken into account in any matters affecting them from the early years. Their views should be given due weight according to their age, maturity and capability (Articles 12 and 13 of the United Nations Convention on the Rights of the Child).

1.7 Parents' views are important during the process of carrying out an EHC needs assessment and drawing up or reviewing an EHC plan in relation to a child. Local authorities, early years providers and schools should enable parents to share their knowledge about their child and give them confidence that their views and contributions are valued and will be acted upon. At times, parents, teachers and others may have differing expectations of how a child's needs are best met. Sometimes these discussions can be challenging but it is in the child's best interests for a positive dialogue between parents, teachers and others to be maintained, to work through points of difference and establish what action is to be taken.

1.8 The Children and Families Act 2014 gives significant new rights directly to young people once they reach the end of compulsory school age (the end of the academic year in which they turn 16). When a young person reaches the end of compulsory school age, local authorities and other agencies should normally engage directly with the young person rather than their parent, ensuring that as part of the planning process they identify the relevant people who should be involved and how to involve them. Chapter 8 sets out how some decision-making rights transfer from parents to young people at this stage and how families will continue to play a critical role in supporting a young person with SEN. Most young people will continue to want, or need, their parents and other family members to remain involved in discussions and decisions about their future. Some young people, and possibly some parents, will not have the mental capacity to make certain decisions or express their views. Provision is made in the Children and Families Act (Section 80) to deal with this and Annex 1 to this Code provides further details.

Supporting children, young people and parents to participate in decisions about their support

1.9 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. This should include information on their rights and entitlements in accessible formats and time to prepare for discussions and meetings. From Year 9 onwards, particularly for those with Education, Health and Care plans, local authorities, schools, colleges and other agencies will be involved in the planning for their transition to adult life, the future and how to prepare for it, including their health, where they will live, their relationships, control of their finances, how they will participate in the community and achieve greater independence. Further details are given in Chapter 8. Local authorities should help children and their families prepare for the change in status under SEN law that occurs once the child reaches the end of compulsory school age.

1.10 Local authorities should consider whether some young people may require support in expressing their views, including whether they may need support from an advocate (who could be a family member or a professional). Local authorities **must not** use the views of parents as a proxy for young people's views. Young people will have their own perspective and local authorities should have arrangements in place to engage with them directly.

Involving children, young people and parents in planning,

commissioning and reviewing services

1.11 Local authorities **must** consult children with SEN or disabilities, their parents, and young people with SEN or disabilities in reviewing educational and training provision and social care provision and in preparing and reviewing the Local Offer. It is important that they participate effectively in decisions about support available to them in their local area. Chapters 3 and 4 provide guidance on these duties.

1.12 Effective participation should lead to a better fit between families' needs and the services provided, higher satisfaction with services, reduced costs (as long-term benefits emerge) and better value for money. Local authorities should work with children, young people and parents to establish the aims of their participation, mark progress and build trust. They should make use of existing organisations and forums which represent the views of parents – and those which represent the views of children and young people directly – and where these do not exist, local authorities should consider establishing them. Effective participation happens when:

- it is recognised, valued, planned and resourced (for example, through appropriate remuneration and training)

- it is evident at all stages in the planning, delivery and monitoring of services •

there are clearly described roles for children, young people and parents

- there are strong feedback mechanisms to ensure that children, young people and parents understand the impact their participation is making

Parent Carer Forums

1.13 Parent Carer Forums are representative local groups of parents and carers of children and young people with disabilities who work alongside local authorities, education, health and other service providers to ensure the services they plan, commission, deliver and monitor meet the needs of children and families. Parent Carer Forums have been established in most local areas and local authorities are actively encouraged to work with them. More information about Parent Carer Forums is available from the websites of Contact a Family and the National Network of

Parent Carer Forums. Links to them can be found in the References section under Chapter 1.

Identifying children and young people's needs

1.14 Local authorities **must** carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN or have or may

have a disability (Section 22 of the Children and Families Act 2014).

1.15 Local authorities may gather information on children and young people with SEN or disabilities in a number of ways. Anyone can bring a child or young person who they believe has or probably has SEN or a disability to the attention of a local authority (Section 24 of the Children and Families Act 2014) and parents, early years providers, schools and colleges have an important role in doing so.

1.16 CCGs, NHS Trusts and NHS Foundation Trusts **must** inform the appropriate local authority if they identify a child under compulsory school age as having, or probably having, SEN or a disability (Section 23 of the Children and Families Act 2014).

1.17 A child's parents, young people, schools and colleges have specific rights to request a needs assessment for an EHC plan and children and their parents and young people should feel able to tell their school or college if they believe they have or may have SEN. The legal test of when a child or young person requires an EHC plan remains the same as that for a statement under the Education Act 1996. Therefore, it is expected that all those who have a statement and who would have continued to have one under the current system, will be transferred to an EHC plan – no-one should lose their statement and not have it replaced with an EHC plan simply because the system is changing. Similarly, local authorities have undertaken LDAs for young people either because they had a statement at school or because, in the opinion of the local authority, they are likely to need additional support as part of their further education or training and would benefit from an LDA to identify their learning needs and the provision required to meet those needs. Therefore, the expectation is that young people who are currently receiving support as a result of an LDA and remain in further education or training during the transition period, who request and need an EHC plan, will be issued with one.

1.18 Chapters 5, 6 and 7 provide guidance for early years providers, schools and colleges on identifying children and young people's SEN and making provision to meet those needs as early as possible.

1.19 Local authorities, CCGs and other partners **must** work together in local Health and Wellbeing Boards to assess the health needs of local people, including those with SEN or who are disabled. This assessment, the Joint Strategic Needs Assessment, informs a local Health and Wellbeing Strategy which sets priorities for those who

commission services. Local authorities **must** keep their educational and training provision and social care provision for children and young people with SEN or disabilities under review (Section 27 of the Children and Families Act 2014). In carrying out this duty, the local authority will gather information from early years providers, schools and post-16 institutions. In most cases, those institutions **must**, in turn, co-operate with the local authority. The local authority **must** publish and keep

under review its Local Offer of provision in consultation with children, their parents and young people. Guidance on these matters is given in Chapters 3 and 4.

Greater choice and control for parents and young people over their support

1.20 A local authority's Local Offer should reflect the services that are available as a result of strategic assessments of local needs and reviews of local education and care provision (Section 27 of the Children and Families Act 2014) and of health provision (Joint Strategic Needs Assessments and Joint Commissioning arrangements (Section 26 of the Children and Families Act 2014). Linking these assessments and reviews to the Local Offer will help to identify gaps in local provision. Local authorities **must** involve children and young people with SEN or disabilities and the parents of children with SEN or disabilities in the development and review of the Local Offer. This will help to ensure it is responsive to local families. Guidance on the Local Offer is provided in Chapter 4.

1.21 Parents of children who have an EHC plan and young people who have such a plan have a right to ask for a particular educational institution to be named in the plan and for a Personal Budget for their support. Guidance is given in Chapter 9.

Collaboration between education, health and social care services to provide support

1.22 If children and young people with SEN or disabilities are to achieve their ambitions and the best possible educational and other outcomes, including getting a job and living as independently as possible, local education, health and social care services should work together to ensure they get the right support.

1.23 When carrying out their statutory duties under the Children and Families Act 2014, local authorities **must** do so with a view to making sure that services work together where this promotes children and young people's wellbeing or improves the quality of special educational provision (Section 25 of the Children and Families Act 2014). Local authorities **must** work with one another to assess local needs. Local authorities and health bodies **must** have arrangements in place to plan and commission education, health and social care services jointly for children and young people with SEN or disabilities (Section 26). Chapter 3 gives guidance on those duties.

High quality provision to meet the needs of children and young people with SEN

1.24 High quality teaching that is differentiated and personalised will meet the individual needs of the majority of children and young people. Some children and young people

need educational provision that is additional to or different from this. This is special educational provision under Section 21 of the Children and Families Act 2014. Schools and colleges **must** use their best endeavours to ensure that such provision is made for those who need it. Special educational provision is underpinned by high quality teaching and is compromised by anything less.

1.25 Early years providers, schools and colleges should know precisely where children and young people with SEN are in their learning and development. They should:

- ensure decisions are informed by the insights of parents and those of children and young people themselves
- have high ambitions and set stretching targets for them
- track their progress towards these goals
- keep under review the additional or different provision that is made for them
- promote positive outcomes in the wider areas of personal and social development, and
- ensure that the approaches used are based on the best possible evidence and are having the required impact on progress

Chapters 5, 6 and 7 give guidance on identifying and supporting children and young people with SEN or disabilities.

A focus on inclusive practice and removing barriers to learning

1.26 As part of its commitments under articles 7 and 24 of the United Nations Convention of the Rights of Persons with Disabilities, the UK Government is committed to inclusive education of disabled children and young people and the progressive removal of barriers to learning and participation in mainstream education. The Children and Families Act 2014 secures the general presumption in law of mainstream education in relation to decisions about where children and young people with SEN should be educated and the Equality Act 2010 provides protection from discrimination for disabled people.

1.27 Where a child or young person has SEN but does not have an EHC plan they **must** be educated in a mainstream setting except in specific circumstances (see below).

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly. Admissions authorities:

- **must** consider applications from parents of children who have SEN but do not

have an EHC plan on the basis of the school's published admissions criteria as part of normal admissions procedures

- **must not** refuse to admit a child who has SEN but does not have an EHC plan because they do not feel able to cater for those needs

- **must not** refuse to admit a child on the grounds that they do not have an EHC plan

1.28 The Equality Act 2010 prohibits schools from discriminating against disabled children and young people in respect of admissions for a reason related to their disability. Further education (FE) colleges manage their own admissions policies and are also prohibited from discriminating against disabled young people in respect of admissions. Students will need to meet the entry requirements for courses as set out by the college, but should not be refused access to opportunities based on whether or not they have SEN.

1.29 Children and young people without an EHC plan can be placed in special schools and special post-16 institutions only in the following exceptional circumstances:

- where they are admitted to a special school or special post-16 institution to be assessed for an EHC plan with their agreement (in the case of a young person) or the agreement of their parent (in the case of a child), the local authority, the head teacher or principal of the special school or special post-16 institution and anyone providing advice for the assessment

- where they are admitted to a special school or special post-16 institution following a change in their circumstances with their agreement (in the case of a young person) or the agreement of their parent (in the case of a child), the local authority and the head teacher or principal of the special school or special post-16 institution. Where an emergency placement of this kind is made the local authority should immediately initiate an EHC needs assessment or re-assessment

- where they are in hospital and admitted to a special school which is established in a hospital, or

- where they are admitted to a special academy (including a special free school) whose academy arrangements allow it to admit children or young people with SEN who do not have an EHC plan

1.30 The last of these provisions enables the Secretary of State to approve academy arrangements for individual special academies or special free schools that are innovative and increase access to specialist provision for children and young people

without EHC plans. Those academies the Secretary of State authorises will make clear through their Funding Agreement that a child or young person with SEN but no EHC plan should be placed there only at the request of their parents or at their own request and with the support of professional advice such as a report from an educational psychologist. A special academy or special free school with these arrangements will be able to admit only those children who have a type of SEN for which they are designated. They will have adopted fair practices and arrangements that are in accordance with the Schools Admission Code for the admission of children without an EHC plan.

1.31 The leaders of early years settings, schools and colleges should establish and maintain a culture of high expectations that expects those working with children and young people with SEN or disabilities to include them in all the opportunities available to other children and young people so they can achieve well.

1.32 There is a significant overlap between children and young people with SEN and those with disabilities and many such children and young people are covered by both SEN and equality legislation.

1.33 The Equality Act 2010 and Part 3 of the Children and Families Act 2014 interact in a number of important ways. They share a common focus on removing barriers to learning. In the Children and Families Act 2014 duties for planning, commissioning and reviewing provision, the Local Offer and the duties requiring different agencies to work together apply to all children and young people with SEN or disabilities. In carrying out the duties in the Children and Families Act 2014, local authorities and others with responsibilities under that Act, are covered by the Equality Act.

1.34 In practical situations in everyday settings, the best early years settings, schools and colleges do what is necessary to enable children and young people to develop, learn, participate and achieve the best possible outcomes irrespective of whether that is through reasonable adjustments for a disabled child or young person or special educational provision for a child or young person with SEN.

1.35 Much of the guidance in this Code of Practice focuses on the individual duties owed to children and young people with SEN. When early years settings, schools and colleges, local authorities and others plan and review special educational provision and make decisions about children and young people with SEN (chapters 5 to 7) and 9) they should consider, at the same time, the reasonable adjustments and access arrangements required for the same child or young person under the Equality Act.

1.36 The presumption of mainstream education is supported by provisions safeguarding the interests of all children and young people and ensuring that the preferences of

the child's parents or the young person for where they should be educated are met wherever possible.

1.37 Special schools (in the maintained, academy, non-maintained and independent sectors), special post-16 institutions and specialist colleges all have an important role in providing for children and young people with SEN and in working collaboratively with mainstream and special settings to develop and share expertise and approaches.

1.38 Children and young people with SEN have different needs and can be educated effectively in a range of mainstream or special settings. Alongside the general presumption of mainstream education, parents of children with an EHC plan and young people with such a plan have the right to seek a place at a special school, special post-16 institution or specialist college. Further details of the arrangements for Education, Health and Care Plans are set out in Chapter 9.

Supporting successful preparation for adulthood

1.39 With high aspirations, and the right support, the vast majority of children and young people can go on to achieve successful long-term outcomes in adult life. Local authorities, education providers and their partners should work together to help children and young people to realise their ambitions in relation to:

- higher education and/or employment – including exploring different employment options, such as support for becoming self-employed and help from supported employment agencies
- independent living – enabling people to have choice and control over their lives and the support they receive, their accommodation and living arrangements, including supported living
- participating in society – including having friends and supportive relationships, and participating in, and contributing to, the local community
- being as healthy as possible in adult life

1.40 All professionals working with families should look to enable children and young people to make choices for themselves from an early age and support them in making friends and staying safe and healthy. As children grow older, and from Year 9 in school at the latest, preparing for adult life should be an explicit element of conversations with children and their families as the young person moves into and through post-16 education. For children and young people in or beyond Year 9 with

EHC plans, local authorities have a legal duty to include provision to assist in

preparing for adulthood in the EHC plan review.

1.41 Chapter 8 provides further guidance on how to support children and young people in preparing for adult life. Provision required for preparation for adulthood should inform joint commissioning of services, the Local Offer, EHC needs assessments and plans, and education and training provision for all children and young people with SEN.

2 Impartial information, advice and support

What this chapter covers

This chapter is about the information, advice and support which local authorities **must** provide for children, young people and parents, covering special educational needs (SEN), disability, health and social care.

Relevant legislation

Primary

Sections 19(c), 26(3), 32 and 49 of the Children and Families Act

2014 **Regulations**

The Special Educational Needs and Disability Regulations 2014

The Special Educational Needs (Personal Budgets) Regulations 2014

Introduction

2.1 Local authorities **must** arrange for children with SEN or disabilities for whom they are responsible, and their parents, and young people with SEN or disabilities for whom they are responsible, to be provided with information and advice about matters relating to their SEN or disabilities, including matters relating to health and social care. This **must** include information, advice and support on the take-up and management of Personal Budgets. In addition, in carrying out their duties under Part 3 of the Children and Families Act 2014, local authorities **must** have regard to the importance of providing children and their parents and young people with the information and support necessary to participate in decisions.

2.2 Local authorities **must** take steps to make these services known to children, their parents and young people in their area; head teachers, proprietors and principals of schools and post-16 institutions in their area, and others where appropriate.

2.3 They **must** ensure that their Local Offer includes details of how information, advice and support related to SEN and disabilities can be accessed and how it is resourced (Chapter 4, The Local Offer).

2.4 Information, advice and support should be provided through a dedicated and easily identifiable service. Local authorities have established Information, Advice and Support Services (formerly known as Parent Partnership services) to provide information, advice and support to parents in relation to SEN. In addition, many local authorities provide or commission information, advice and support services for young

people. Local authorities should build on these existing services to provide the information, advice and support detailed in this chapter.

2.5 Information, Advice and Support Services should be impartial, confidential and accessible and should have the capacity to handle face-to-face, telephone and electronic enquiries.

2.6 Local authorities should involve children, young people and parents (including local Parent Carer Forums and Youth Forums) in the design or commissioning of services providing information, advice and support in order to ensure that those services meet local needs. Local authorities should do this in a way which ensures that children, young people and parents feel they have participated fully in the process and have a sense of co-ownership. Chapters 3 and 4 give further detail on how local authorities should engage these groups in planning, commissioning and reviewing services, and in developing the Local Offer.

2.7 The joint arrangements that local authorities and Clinical Commissioning Groups (CCGs) **must** have for commissioning education, health and care provision for children and young people with SEN or disabilities **must** include arrangements for considering and agreeing what information and advice about education, health and care provision is to be provided, by whom and how it is to be provided. These joint arrangements should consider the availability of other information services in their area (services such as youth services, Local Healthwatch, the Patient Advice and Liaison Service (PALS) and the Family Information Service) and how these services will work together.

2.8 When designing Information, Advice and Support Services, local authorities should take into account the following principles:

- The information, advice and support should be impartial and provided at arm's length from the local authority and CCGs

- The information, advice and support offered should be free, accurate, confidential and in formats which are accessible and responsive to the needs of users

- Local authorities should review and publish information annually about the effectiveness of the information, advice and support provided, including customer satisfaction (see also Chapter 4, The Local Offer)

- Staff providing information, advice and support should work in partnership with children, young people, parents, local authorities, CCGs and other

relevant partners

- The provision of information, advice and support should help to promote independence and self-advocacy for children, young people and parents

- Staff providing information, advice and support should work with their local Parent Carer Forum and other representative user groups (such as Youth Forums) to ensure that the views and experiences of children, young people and parents inform policy and practice

Who are information, advice and support for?

2.9 Local authorities should recognise the different needs of children, young people and parents.

Children

2.10 The Children and Families Act 2014 requires local authorities to provide children with information, advice and support relating to their SEN or disability. Many children will access information, advice and support via their parents. However, some children, especially older children and those in custody, may want to access information, advice and support separately from their parents, and local authorities **must** ensure this is possible.

Parents

2.11 Staff working in Information, Advice and Support Services should be trained to support, and work in partnership with, parents.

2.12 As a child reaches the end of compulsory school age (the end of the academic year in which they turn 16), some rights to participate in decision-making about Education Health and Care (EHC) plans transfer from the parent to the young person, subject to their capacity to do so, as set out in the Mental Capacity Act 2005 (See Chapter 8 for more information). Parents of young people can still access information, advice and support on behalf of, or with, the young person. Staff should be clear about the transfer of some rights and responsibilities to young people, and work sensitively with parents to help them understand their role.

2.13 There may be cases where the young person and the parents do not agree on an issue. Legally, it is the young person's decision which prevails, subject to their capacity. Where there are disagreements, staff providing information, advice and support should work impartially and separately with both the parents and the young person.

Young people

2.14 Young people are entitled to the same quality and level of information, advice and support as parents. Local authorities should recognise the specific needs of this

group, while ensuring co-ordination and consistency in what is offered to children, young people and parents.

2.15 Young people **must** have confidence that they are receiving confidential and impartial information, advice and support. Staff working directly with young people should be trained to support them and work in partnership with them, enabling them to participate fully in decisions about the outcomes they wish to achieve. Young people may be finding their voice for the first time, and may need support in exercising choice and control over the support they receive (including support and advice to take up and manage Personal Budgets). Advocacy should be provided where necessary. Local authorities **must** provide independent advocacy for young people undergoing transition assessments, provided certain conditions are met (see section 67 of the Care Act 2014).

2.16 The service should direct young people to specialist support to help them prepare for employment, independent living (including housing) and participation in society and should provide access to careers advice where needed. Duties on schools and colleges to give impartial careers advice are covered in Chapter 8, Preparing for adulthood from the earliest years.

What needs to be provided?

2.17 The scope of this information, advice and support should cover initial concerns or identification of potential SEN or disabilities, through to ongoing support and provision, which may include an EHC plan. The local authority **must** ensure children, young people and parents are provided with information and advice on matters relating to SEN and disability. This should include:

- local policy and practice
- the Local Offer
- personalisation and Personal Budgets
- law on SEN and disability, health and social care, through suitably independently trained staff
- advice for children, young people and parents on gathering, understanding and interpreting information and applying it to their own situation

• information on the local authority's processes for resolving disagreements, its complaints procedures and means of redress

2.18 Local Healthwatch offers advice to patients and their families in relation to health services, and CCGs and local authorities should ensure that this information is clearly available to families, including through the Local Offer.

2.19 To meet local needs, local authorities should provide the following forms of support through their Information, Advice and Support Service(s):

- Signposting children, young people and parents to alternative and additional sources of advice, information and support that may be available locally or nationally
- Individual casework and representation for those who need it, which should include:
  - support in attending meetings, contributing to assessments and reviews and participating in decisions about outcomes for the child or young person
  - directing children, young people, parents and those who support and work with them to additional support services where needed, including services provided by the voluntary sector. These services should include support relating to preparing for adulthood, including housing support, careers advice and employment support
- Help when things go wrong, which should include:
  - supporting children, young people and parents in arranging or attending early disagreement resolution meetings
  - supporting children, young people and parents in managing mediation, appeals to the First-tier Tribunal (Special Educational Needs and Disability), exclusions and complaints on matters related to SEN and disability
  - making children, young people and parents aware of the local authority's services for resolving disagreements and for mediation, and on the routes of appeal and complaint on matters related to SEN and disability (see Chapter 11, Resolving disagreements)
- Provision of advice through individual casework and through work with parent carer support groups, local SEN youth forums or disability groups, or

training events

Additional support

2.20 Families may receive help from an independent supporter, provided by private voluntary and community sector organisations, who is independent of the local authority. Independent supporters will be recruited locally and receive accredited training, including legal training, to help any family going through an EHC needs assessment and the process of developing an EHC plan. Local authorities should work with organisations that are providing independent supporters to ensure there are arrangements agreed locally to offer help from an independent supporter to as many families as possible who require it.

2.21 Local authorities should adopt a key working approach, which provides children, young people and parents with a single point of contact to help ensure the holistic provision and co-ordination of services and support. Key working may be provided by statutory services in health, social care and education, or by the voluntary, community, private or independent sectors. Key working can be offered to any family where children and young people have SEN or disabilities, for example if they receive SEN support in schools or nurseries or in preparing for adulthood. Approaches will vary locally, but the main functions of key working support should include some or all of the following:

- emotional and practical support as part of a trusting relationship
- enabling and empowering for decision-making and the use of Personal Budgets
- co-ordinating practitioners and services around the child or young person and their family
- being a single point of regular and consistent contact
- facilitating multi-agency meetings
- supporting and facilitating a single planning and joint assessment process •

identifying strengths and needs of family members

- providing information and signposting
- advocating on behalf of the child, young person and/or their family

• facilitating the seamless integration of clinical and social care services with specialist and universal services

2.22 Guidance and examples of best practice on key working approaches are available from the Early Support website (see the References section under Chapter 2) and the Pathfinder information packs (see the References section under General). Further non-statutory guidance on how to deliver impartial information, advice and support for children, young people and parents can be found on the Information,

Advice and Support Services Network website – see the References section under Chapter 2 for a link.

Support for parents in HM Armed Forces

2.23 Parents serving in HM Armed Forces can also access the Children's Education Advisory Service (CEAS) – an information, advice and support service established specifically for Service parents. It covers any issue relating to their children's education, including SEN. More information about CEAS may be found on the CEAS website – a link is given in the References section under Chapter 2.

Support for children and young people in custody

2.24 When securing a detained person's EHC needs assessment the local authority **must** consider whether the child, the child's parent or the young person requires any information, advice and support in order to enable them to take part effectively in the assessment. If it considers that such information, advice or support is necessary the local authority **must** provide it. Further guidance in respect of children and young people who are in custody is in Chapter 10.

3 Working together across education, health and care for joint outcomes

What this chapter covers

This chapter explains the duties local authorities and their partner commissioning bodies have for developing joint arrangements for commissioning services to improve outcomes for 0 to 25-year-old children and young people who have special educational needs (SEN) or disabilities, including those with Education Health and Care (EHC) plans.

It explains:

- the scope of joint commissioning arrangements
- how local partners should commission services to meet local needs and support better outcomes

- how partnership working should inform and support the joint commissioning arrangements
- the role that children, young people, parents and representative groups such as Parent Carer Forums and Youth Forums have in informing commissioning arrangements
- responsibility for decision-making in joint commissioning arrangements
- how partners should develop a joint understanding of the outcomes that their local population of children and young people with SEN and disabilities aspires to, and use it to produce a joint plan, which they then deliver jointly, and review jointly
- how joint commissioning draws together accountability arrangements for key partners
- the role of colleges as commissioners

Relevant legislation

Primary

Sections 23, 25, 28 and 31 of the Children and Families Act 2014

The Care Act 2014

Section 2 of the Chronically Sick and Disabled Persons Act 1970

Schedule 2, Sections 17 and section 47 of the Children Act 1989

Section 2 of the Children Act 2004

National Health Service Act 2006 (Part 3, section 75 and 14Z2)

Local Government and Public Involvement in Health Act 2007

Equality Act 2010 (including disability equality duty under s149)

Health and Social Care Act 2012

The legal framework

3.1 Section 25 of the Children and Families Act 2014 places a duty on local authorities that should ensure integration between educational provision and training provision, health and social care provision, where this would promote wellbeing and improve the quality of provision for disabled young people and those with SEN.

3.2 The Care Act 2014 requires local authorities to ensure co-operation between children's and adults' services to promote the integration of care and support with health services, so that young adults are not left without care and support as they make the transition from children's to adult social care. Local authorities **must** ensure the availability of preventative services for adults, a diverse range of high quality local care and support services and information and advice on how adults can access this universal support.

3.3 Local authorities and clinical commissioning groups (CCGs) **must** make joint commissioning arrangements for education, health and care provision for children and young people with SEN or disabilities (Section 26 of the Act). The term 'partners' refers to the local authority and its partner commissioning bodies across education, health and social care provision for children and young people with SEN or disabilities, including clinicians' commissioning arrangements, and NHS England for specialist health provision.

3.4 Joint commissioning should be informed by a clear assessment of local needs. Health and Wellbeing Boards are required to develop Joint Strategic Needs Assessments and Joint Health and Wellbeing Strategies, to support prevention, identification, assessment and early intervention and a joined-up approach. Under section 75 of the National Health Service Act 2006, local authorities and CCGs can pool resources and delegate certain NHS and local authority health-related functions to the other partner(s) if it would lead to an improvement in the way those functions are exercised.

3.5 To take forward the joint commissioning arrangements for those with SEN or disabilities described in this chapter, partners could build on any existing structures established under the Children Act 2004 duties to integrate services.

3.6 The NHS Mandate, which CCGs **must** follow, contains a specific objective on

supporting children and young people with SEN or disabilities, including through the offer of Personal Budgets.

3.7 Joint commissioning arrangements should enable partners to make best use of all the resources available in an area to improve outcomes for children and young people in the most efficient, effective, equitable and sustainable way (*Good commissioning: principles and practice, Commissioning Support Programme, (Rev) September 2010*). Partners **must** agree how they will work together. They should aim to provide personalised, integrated support that delivers positive outcomes for children and young people, bringing together support across education, health and social care from early childhood through to adult life, and improves planning for transition points such as between early years, school and college, between children's and adult social care services, or between paediatric and adult health services.

3.8 Under the Public Sector Equality Duty (Equality Act 2010), public bodies (including CCGs, local authorities, maintained schools, maintained nursery schools, academies and free schools) **must** have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people when carrying out their functions. They **must** publish information to demonstrate their compliance with this general duty and **must** prepare and publish objectives to achieve the core aims of the general duty. Objectives **must** be specific and measurable.

Scope of joint commissioning arrangements

3.9 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. Services will include specialist support and therapies, such as clinical treatments and

delivery of medications, speech and language therapy, assistive technology, personal care (or access to it), Child and Adolescent Mental Health Services (CAMHS) support, occupational therapy, habilitation training, physiotherapy, a range of nursing support, specialist equipment, wheelchairs and continence supplies and also emergency provision. They could include highly specialist services needed by only a small number of children, for instance children with severe learning disabilities or who require services which are commissioned centrally by NHS England (for example some augmentative and alternative communication systems, or health provision for children and young people in the secure estate or secure colleges).

3.10 Local authorities, NHS England and their partner CCGs **must** make arrangements for agreeing the education, health and social care provision reasonably required by local children and young people with SEN or disabilities. In doing so they should take into

account provision being commissioned by other agencies, such as schools, further education colleges and other education settings. Partners should commission provision for children and young people who need to access services swiftly, for example because they need emergency mental health support or have sustained a serious head injury.

3.11 Joint commissioning **must** also include arrangements for:

- securing EHC needs assessments
- securing the education, health and care provision specified in EHC plans, and •

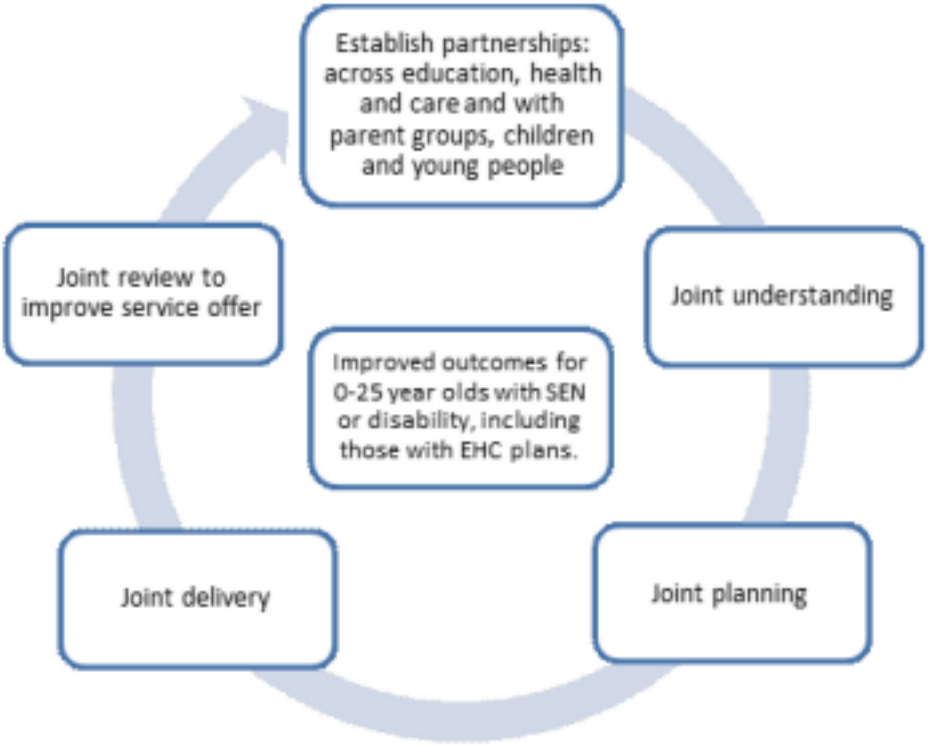
agreeing Personal Budgets

3.12 Local joint commissioning arrangements **must** consider:

- what advice and information is to be provided about education, health and care provision for those who have SEN or are disabled and by whom it is to be provided
- how complaints about education, health and social care provision can be made and are dealt with, and
- procedures for ensuring that disagreements between local authorities and CCGs (and NHS England for specialist services) are resolved as quickly as possible

The outputs of this work **must** be presented publicly in the Local Offer (see Chapter 4, The Local Offer, paragraphs 4.30 and 4.31).

The joint commissioning cycle



Establishing effective partnerships across education, health and care

3.13 Local authorities **must** work to integrate educational provision and training provision with health and social care provision where they think that this would promote the wellbeing of children and young people with SEN or disabilities, or improve the quality of special educational provision. Local partners **must** co-operate with the local authority in this. The NHS Mandate, NHS Act 2006 and Health and Social Care Act 2012 make clear that NHS England, CCGs and Health and Wellbeing Boards **must** promote the integration of services.

3.14 The Care Act 2014 also requires local authorities to work to promote the integration of adult care and support with health services.

3.15 *Working Together to Safeguard Children (2013)* includes requirements for local agencies to work together to assess the social care needs of individual children and young people who may benefit from early help, and for local authorities and their partners to have a clear line of accountability for the commissioning and/or provision of services designed to safeguard and promote the welfare of children and young people.

3.16 The local authority **must** review its educational, training and social care provision, consulting a range of partners including children and young people with SEN or disabilities, and their parents and carers. This consultation will inform the

development and review of the Local Offer (Section 27 of the Children and Families Act 2014).

3.17 The local authority **must** engage other partners it thinks appropriate to support children and young people with SEN and disabilities. This might include voluntary organisations, CAMHS, local therapists, Jobcentre Plus and their employment support advisers, training/apprenticeship/supported employment providers, housing associations, careers advisers, leisure and play services. Local authorities and CCGs should consider the role that private, voluntary and community sector providers can play in delivering services. More information is given on roles and responsibilities of key agencies from paragraph 3.70 onwards.

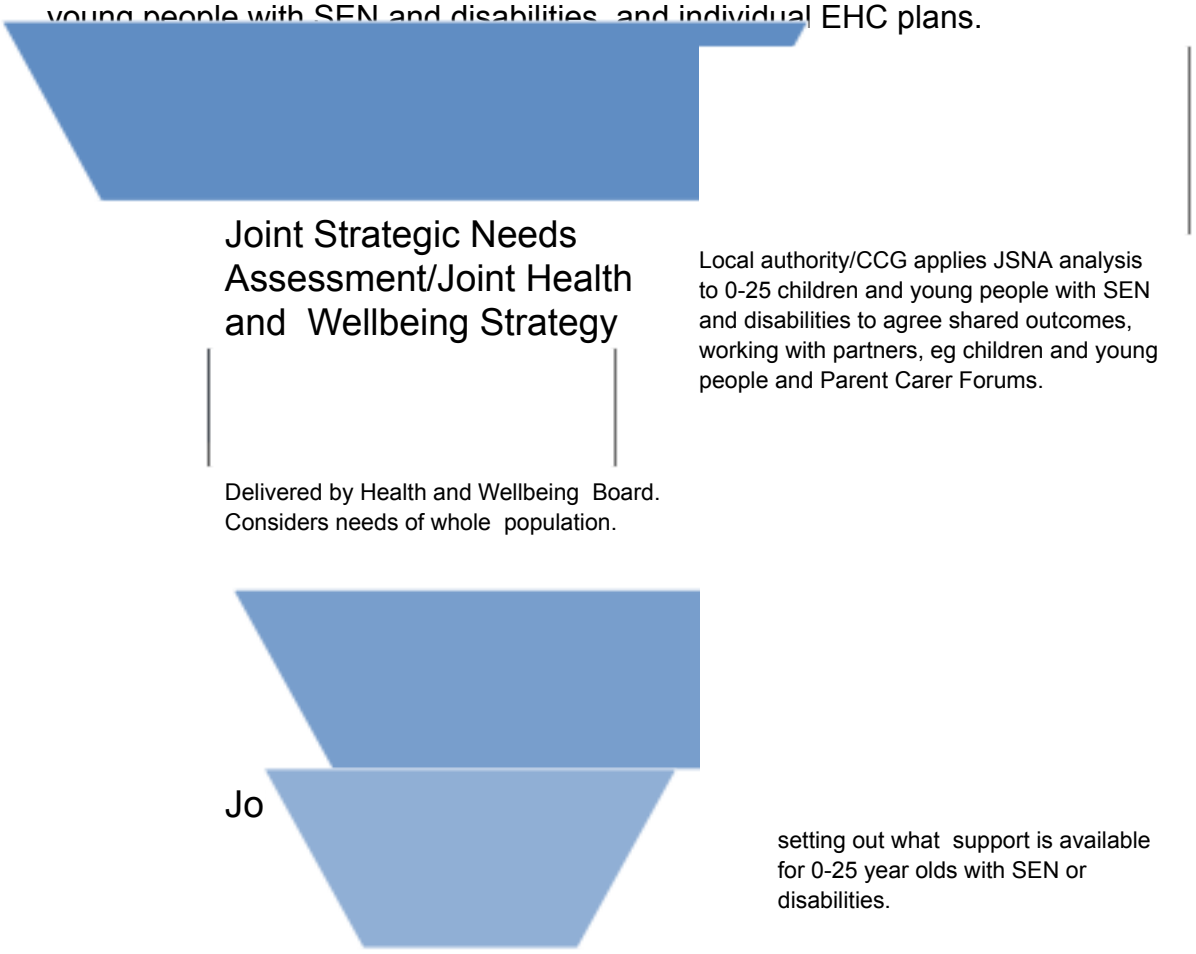
Partnership with children, young people and parents

3.18 At a strategic level, partners **must** engage children and young people with SEN and disabilities and children's parents in commissioning decisions, to give useful insights into how to improve services and outcomes. Local authorities, CCGs and NHS England **must** develop effective ways of harnessing the views of their local communities so that commissioning decisions on services for those with SEN and disabilities are shaped by users' experiences, ambitions and expectations. To do this, local authorities and CCGs should engage with local Healthwatch organisations, patient representative groups, Parent Carer Forums, groups representing young people with SEN and disabilities and other local voluntary organisations and community groups.

3.19 Under Section 14Z2 of the NHS Act 2006 each CCG **must** exercise its functions to secure that individuals to whom the services are being, or may be, provided, are involved in in planning commissioning arrangements, in the development and consideration of proposals for change, and in decisions affecting the operation of commissioning arrangements where implementation would have an impact on the manner in which services are delivered or the range of services available. Links to a range of useful resources to help them do this are provided in the References section under Chapter 3.

Joint understanding: Joint Strategic Needs Assessments 3.20

There is a clear relationship between population needs, what is procured for children and young people with SEN and disabilities, and individual EHC plans.



3.21 Each upper tier local authority (county council or unitary authority) has a Health and

Wellbeing Board. The Health and Wellbeing Board is a strategic forum which provides leadership across the health, public health and social care systems. The board's job is to improve the health and wellbeing of the local population and reduce health inequalities. Health and Wellbeing Boards have a duty to promote greater integration and partnership working, including through joint commissioning, integrated provision and pooled budgets. The membership of the board **must** include the Director of Children's Services, Director of Public Health, Director of Adult Social Services and a minimum of one elected member from the local authority, a CCG representative and a local Healthwatch representative. Membership from communities and wider partners is decided locally.

3.22 The Joint Strategic Needs Assessment (JSNA) is the means by which the Board understands and agrees the needs of all local people. It is the basis for the joint health and wellbeing strategy which sets the priorities for joint action. Further information about the JSNA is available on the GOV.UK website – a link is given in the References section under Chapter 3.

3.23 The JSNA considers the needs of the local community as a whole, including specific analysis of the needs of vulnerable groups including disabled children and young

people and those with SEN, those needing palliative care and looked after children. Local partners across education, health and social care should work together to establish what targeted commissioning is needed to address the needs identified.

3.24 The JSNA will inform the joint commissioning decisions made for children and young people with SEN and disabilities, which will in turn be reflected in the services set out in the Local Offer. At an individual level, services should co-operate where necessary in arranging the agreed provision in an EHC plan. Partners should consider how they will work to align support delivered through mechanisms such as the early help assessment and how SEN support in schools can be aligned both strategically and operationally. They should, where appropriate, share the costs of support for individual children and young people with complex needs, so that they do not fall on one agency.

Responsibility for decision-making in joint commissioning arrangements

3.25 Local authorities and CCGs have considerable freedom in how they work together to deliver integrated support that improves children and young peoples' outcomes. However, local governance arrangements **must** be in place to ensure clear accountability for commissioning services for children and young people with SEN and disabilities from birth to the age of 25. There **must** be clear decision-making structures so that partners can agree the changes that joint commissioning will bring in the design of services. This will help ensure that joint commissioning is focused on

achieving agreed outcomes. Partners **must** also be clear about who is responsible for delivering what, who the decision-makers are in education, health and social care, and how partners will hold each other to account in the event of a disagreement. The partners **must** be able to make a decision on how they will meet the needs of children and young people with SEN or disabilities in every case.

3.26 Elected members, governing bodies of CCGs and chief executives across education, health and social care should provide leadership for integrated working. Arrangements for children and young people with SEN or disabilities should be specifically accountable to Lead Members for Children's Services and Directors for Children's Services in line with their statutory duties. It should be clear who can make decisions both operationally (for example, deciding what provision should be put in an EHC plan) and strategically (for example, what provision will be commissioned locally for disabled children and young people and those with SEN) in exercising statutory duties.

Using information to understand and predict need for services

3.27 To inform commissioning decisions, partners should draw on the wide range of local data sets as well as qualitative information about the likely education, health and social care needs of children and young people with SEN or disabilities.

3.28 Data-sets include but are not restricted to:

- population and demographic data
- prevalence data for different kinds of SEN and disability among children and young people at national level – for example through the Child and Maternal Health Intelligence Network (CHiMat)
- numbers of local children and young people with EHC plans and their main needs
- use of out-of-area placements for those with low-incidence needs
- analysis of key performance indicators that are shared across health, education and social care as part of the new joint commissioning arrangements

- the outcomes of developmental assessments (including the two-year-old check)
- information from the Early Years Foundation Stage (EYFS) profile
- where children or young people with SEN or disabilities are educated
- an analysis of local challenges and sources of health inequalities – for example, the level of local economic deprivation, historic data about previous support offered through statements and EHC plans, and the education and health needs of young offenders
- employment rates for young people leaving education
- local data on disabled children from the register of disabled children in their area (including those with impaired hearing and vision) which local authorities are required to keep under Schedule 2 of the Children Act 1989. Local authorities should ensure that registers of disabled children and young people, and particularly details of those with a vision or hearing impairment, are kept accurate and up to date, as such low-incidence needs are particularly difficult to plan for from national data sets

3.29 Local authorities **must** review their provision, taking into consideration the experiences of children, young people and families (including through representative groups such as Parent Carer Forums), voluntary and community sector providers and local Healthwatch. Information from such reviews will contribute to future arrangements and the effectiveness of local joint working.

3.30 Joint commissioning arrangements should be based on evidence about which services, support and interventions are effective. Local areas should maintain up-to date information on research and guidance about good practice, for example through referring to NICE guidance and Campbell collaboration/Cochrane collaboration.

Joint planning

Deciding on shared outcomes

3.31 Local partners should identify the outcomes that matter to children and young people with SEN or disabilities to inform the planning and delivery of services and the monitoring of how well services have secured those outcomes. Outcomes refer to the benefit or difference made to an individual as a result of an intervention at three levels:

- **Individual outcomes** such as might be set out in an EHC plan**:** for example,

Martha can communicate independently with her friends at playtime

- **Service level outcomes:** for example, paternal mental health has improved in 10 families
- **Strategic outcomes:** for example, there has been a 10% increase in young people supported into employment and independent living

3.32 To achieve such outcomes, provision has to be put in place. In the examples above, a speech and language and social skills programme, a short breaks programme and a newly commissioned transitions strategy, respectively.

3.33 Partners should use their joint understanding to determine the shared outcomes they seek to achieve, for example improvement in educational attainment, levels of mental health and wellbeing and reductions in health inequalities. They should draw on national priorities (for example, those set through the NHS Outcomes Framework), local priorities (for example, the JSNA and Joint Health and Wellbeing Strategy). This should be a transparent process – the local community should be aware both of what the shared outcomes are and the plan to achieve them. This requirement could be discharged through the requirement to consult publicly on the Local Offer.

3.34 The Children and Young People's Outcome Forum report *Improving Children and Young People's Health Outcomes: a system wide response* is a useful resource that partners should draw upon. It is available from the GOV.UK website (see References section under Chapter 3 for a link).

Making best use of resources

3.35 Joint commissioning arrangements should help partners identify scope for working more efficiently together. Partners should assess the extent to which activities contribute to their local priorities and outcomes and decide which services should be commissioned or decommissioned, in consultation with children and young people with SEN or disabilities, their parents, or representative groups such as Parent Carer Forums.

3.36 Under Section 10 of the Children Act 2004 and Section 75 of the National Health Service Act 2006 local authorities and CCGs have a statutory duty to consider the extent to which children and young people's needs could be met more effectively through integrating services and aligning or pooling budgets in order to offer greater value for money, improve outcomes and/or better integrate services for children and young people with SEN or disabilities. Under the Care Act 2014, local authorities **must** ensure the provision of preventative services, the diversity and quality of care

and support services for adults, and the provision of information and advice on care and support locally.

3.37 To make the best use of resources, partners should consider how an integrated approach can best support:

- prevention – for example using the outcomes of developmental assessments as outlined in the EYFS to target early help for children experiencing developmental delay can reduce the need for specialist services later on
- early identification of needs
- the resilience of families and local services to enable children and young people with more complex needs to participate actively in their local community
- better access to services
- the development of good language, communication and mental health through universal services so that effective use is made of specialist speech and language therapy services and CAMHS

- better transitions between life stages and settings, including from early years to primary education, primary to secondary and secondary to further education (FE), and
- children and young people in preparing for adult life

Personal Budgets

3.38 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. Partners **must** set out in their joint commissioning arrangements their arrangements for agreeing Personal Budgets. They should develop and agree a formal approach to making fair and equitable allocations of funding and should set out a local policy for Personal Budgets that includes:

- a description of the services across education, health and social care that currently lend themselves to the use of Personal Budgets
- the mechanisms of control for funding available to parents and young people including:

- direct payments – where individuals receive the cash to contract, purchase and manage services themselves
- an arrangement – whereby the local authority, school or college holds the funds and commissions the support specified in the EHC plan (these are sometimes called notional budgets)
- third party arrangements – where funds (direct payments) are paid to and managed by an individual or organisation on behalf of the child's parent or the young person
- a combination of the above

• clear and simple statements of eligibility criteria and the decision-making processes that underpin them

3.39 To do this, partners should:

• identify and agree the funding streams and services for inclusion and develop the necessary infrastructure to support their inclusion

• identify the links to be made locally between the SEN offer and Personal Health Budgets for children and adults

• identify and establish the information, advice and support necessary at an area and individual level to help families consider options for, and to take up and manage, Personal Budgets

• develop a pathway for Personal Budgets within the process of EHC needs assessment and EHC plan development and the workforce and cultural changes necessary for a person-centred approach

• identify how the new joint commissioning strategies will support greater choice and control year on year, as the market is developed and funding streams are freed from existing contractual arrangements

• as an integral part of this, partners should ensure children, young people and families are involved in the decision-making processes at both an individual and a strategic level

Joint delivery

3.40 At a strategic level, when commissioning training for professionals partners should

consider whether combined service delivery, training or a common set of key skills would help professionals and providers adapt to meeting the needs of children and young people with SEN or disabilities in a more personalised way. This could include commissioning 'key working' roles to support children and young people with SEN and disabilities and their parents, particularly at key points such as diagnosis, EHC plan development and transition.

3.41 Partners should also consider whether and how specialist staff can train the wider workforce so they can better identify need and offer support earlier – for example, educational psychologists or speech and language therapists training professionals such as teachers or GPs to identify and support children and young people with mental health problems or speech and language difficulties, respectively. This may involve NHS Local Education and Training Boards. Some areas have involved parent carers in delivery of workforce development programmes.

Joint review to improve service offered

3.42 Joint commissioning is an ongoing improvement cycle. Over time, partners may shift the focus of their activity as the needs of the local population change and delivery of services improves.

3.43 Partners should agree how they will work together to monitor how outcomes in education, health and care are being improved as a result of the provision they make. Partners should monitor the changing needs of the local population of children and young people with SEN and disabilities closely and, crucially, establish whether or not the provision arranged for them is improving outcomes. EHC plans for

individual children and young people **must** be similarly reviewed to see if they are enabling the child or young person to achieve their desired outcomes, so that where appropriate the commissioned provision can be changed. Feedback from children, young people and families is useful in identifying gaps in provision. Any changes in provision commissioned locally should be reflected in the Local Offer.

3.44 Local authorities **must** review the special educational provision and social care provision in their areas for children and young people who have SEN or disabilities and the provision made for local children and young people who are educated out of the area, working with the partners to their joint commissioning arrangements. The local authority **must** consult with children and young people with SEN or disabilities and their parents and as part of this should consult with family representatives such as Parent Carer Forums. Joint commissioning arrangements **must** consider the needs of children and young people with SEN and disabilities. Partners should also work with commissioners of adult services to ensure that there are smooth transitions between children's and adult services. This will involve working with a range of professionals in the public, private, voluntary and community sectors and

will help those with SEN or disabilities prepare for adulthood, including living independently and employment.

Education, Health and Care: roles and responsibilities

Designated Medical/Clinical Officer

3.45 Partners should ensure there is a Designated Medical Officer (DMO) to support the CCG in meeting its statutory responsibilities for children and young people with SEN and disabilities, primarily by providing a point of contact for local partners, when notifying parents and local authorities about children and young people they believe have, or may have, SEN or a disability, and when seeking advice on SEN or disabilities. This does not alter the CCG's responsibility for commissioning health provision.

3.46 The DMO provides the point of contact for local authorities, schools and colleges seeking health advice on children and young people who may have SEN or disabilities, and provides a contact (or contacts) for CCGs or health providers so that appropriate notification can be given to the local authority of children under compulsory school age who they think may have SEN or disabilities. The DMO can support schools with their duties under the 'Supporting Pupils with Medical Conditions' guidance. The DMO would not routinely be involved in assessments or planning for individuals, except in the course of their usual clinical practice, but would be responsible for ensuring that assessment, planning and health support is carried out. Some CCGs may delegate key decisions to the DMO (for example, agreeing the health services in an EHC plan).

3.47 The DMO should have an appropriate level of clinical expertise to enable them to exercise these functions effectively, and should be designated as the DMO in their job description. There may be one DMO for several CCGs and local authorities, where there are joint arrangements or shared commissioning responsibilities, and given the age range of EHC plans from birth to 25, the DMO may need to liaise with colleagues outside paediatrics.

3.48 This is a non-statutory role which would usually be carried out by a paediatrician, but there is local flexibility for the role to be undertaken by a suitably competent qualified and experienced nurse or other health professional (in which case the role would be the Designated Clinical Officer). The person in this role should have appropriate expertise and links with other professionals to enable them to exercise it in relation to children and young adults with EHC plans from the age of 0 to 25 in a wide range of educational institutions.

Children's social care

3.49 Where a child or young person has been assessed as having social care needs in relation to their SEN or disabilities social care teams:

- **must** secure social care provision under the Chronically Sick and Disabled Persons Act (CSDPA) 1970 which has been assessed as being necessary to support a child or young person's SEN and which is specified in their EHC plan

- should provide early years providers, schools and colleges with a contact for social care advice on children and young people with SEN and disabilities

- **must** undertake reviews of children and young people with EHC plans where there are social care needs

- should make sure that for looked after children and care leavers the arrangements for assessing and meeting their needs across education, health and social care are co-ordinated effectively within the process of care and pathway planning, in order to avoid duplication and delay, to include in particular liaising with the Virtual School Head (VSH) for looked after children

3.50 Where children or young people with SEN or disabilities also have a child in need or child protection plan, the social worker within the SEN team should ensure the statutory timescales for social care assessments are met and any assessments are aligned with EHC needs assessments wherever possible. *Working Together to Safeguard Children* (2013) gives full details. A link is available in the References section under Chapter 3.

Adult social care

3.51 Young people with SEN or disabilities turning 18 may become eligible for adult social care services, regardless of whether they have an EHC plan or whether they have been receiving services from children's social care.

3.52 The Care Act 2014 and the associated regulations and guidance set 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. These are intended to support effective transition from children's to adult social care services. For those already receiving support from children's services, the Care Act makes it clear that local authorities **must** continue to provide children's services until adult provision has started or a decision is made that the young person's needs do not meet the eligibility criteria for adult care and support following an assessment. Children's services **must not** be discontinued simply because a young person has

reached their 18th birthday. More information on this is given in Chapter 8, Preparing for Adulthood.

3.53 Local authorities and their partners **must** co-operate in the provision of adult care and support in promoting the individual's wellbeing and local authorities **must**:

- promote the integration of adult care and support and health services
- arrange the provision of preventative resources that can be accessed by those who require support but who do not have eligible needs (under the Care Act 2014).
- ensure a diverse and high quality range of services to meet assessed care and support needs

3.54 Local authorities **must** provide information and advice on the range of services available. They should include in their Local Offer relevant information and advice on local provision and how to receive an assessment for transition to adult care and support.

3.55 The transition from children's to adult services needs to be well managed and should take place at a time that is appropriate for the individual. This is particularly important where young people's assessed needs do not meet eligibility criteria for adult services.

3.56 Local authorities and their partners should work together to ensure effective and well supported transition arrangements are in place; that assessment and review processes for both Care plans and EHC plans are aligned; that there is effective integration with health services, and that there is a good range of universal provision

for inclusion in the Local Offer. Young people and their families should not be expected to repeatedly provide duplicate information to different services, or to attend numerous reviews, or receive support that is not co-ordinated and joined up. There should be clear and joined-up decision-making processes and lines of accountability for considering when the transition to adult services should take place and ensuring that children's services continue to be in place for as long as required.

3.57 Local authorities should consider ways of supporting carers. Parent carers have often had to give up paid work after their child leaves full time education. Loss of paid employment can have a significant impact on the carer's wellbeing and self esteem as well as a significant impact on the family's financial circumstances. Taking a whole family approach to care and support planning that sets out a 'five-day offer' for a young person and support for a carer to manage an increased caring role (which ideally allows them to stay in paid work if they wish to do so) can help families

manage the transition and save money by avoiding costly out-of-area placements. More information on this is provided in the Care Act Statutory Guidance. Chapter 8 of this Code provides guidance on packages of provision across five days for young people with EHC plans.

3.58 Support for carers includes any support assessed as being reasonably required by the learning difficulties and disabilities which result in the child or young person having SEN. It can include any services assessed under an early help assessment and/or under Section 17 or Section 47 of the Children Act 1989 or eligible needs identified by assessments under adult care provisions. It can also include services for parents and carers which will support the child's outcomes, such as mental health support.

Health services for children and young people with SEN and disabilities and their families

3.59 Health services for children and young people with SEN or disabilities provide early identification, assessment and diagnosis, intervention and review for children and young people with long-term conditions and disabilities, for example chronic fatigue syndrome, anxiety disorders or life-threatening conditions such as inoperable heart disease. Services are delivered by health professionals including paediatricians, psychiatrists, nurses and allied health professionals such as occupational therapists, speech and language therapists, habilitation trainers, physiotherapists and psychologists. In addition, public health services for children ensure a whole population approach to health and wellbeing including preventative services such as immunisation for the whole population and targeted immunisation for the most vulnerable.

3.60 Health services support early identification of young children who may have SEN, through neonatal screening programmes, the Healthy Child Programme, and specialist health and developmental assessment where concerns have been raised. Community paediatricians in conjunction with other health professionals, particularly therapists, are often the first people to notify young children with SEN to local authorities. They provide diagnostic services and health reports for EHC needs assessments. CCGs, NHS Trusts, and NHS Foundation Trusts **must** inform the appropriate local authority if they identify a child under compulsory school age as having, or probably having, a disability or SEN (Section 23 of the Children and Families Act 2014).

3.61 The multi-disciplinary child health team, including paediatricians, therapists, clinical psychologists, dieticians and specialist nurses such as health visitors, school nurses and community children's nursing teams, provide intervention and review for children

and young people with SEN and disabilities and should contribute to supporting key transition points, including to adulthood. They aim to provide optimum health care for the children, addressing the impact of their conditions, managing consequences for the families and preventing further complications.

3.62 Health professionals advise education services on managing health conditions such as epilepsy and diabetes, and health technologies such as tube feeding, tracheostomy care and ventilation in schools. They are able to provide an ongoing overview of health and wellbeing. They seek advice from paediatric specialists when necessary and facilitate training for education staff.

3.63 Therapists have important and specific roles in supporting children and young people with SEN or disabilities, working directly with children and young people, advising and training education staff and setting programmes for implementation at home and in school.

Local authorities' role in delivering health services

3.64 Local authorities and CCGs should consider how best to integrate the commissioning of services for children and young people who have SEN with the CCG's broad responsibility for commissioning health services for other groups, including preventative services, and the local authority's responsibility for health protection and health improvement for the local population. The local authority in particular has responsibility for securing a range of public health services which may be relevant for children and young people, and should consider how this can be aligned with the arrangements for commissioning services for children and young people who are disabled or who have SEN – for example, the Healthy Child Programme for pre-school and school-age children, including school nursing. A factsheet has been produced on the public health responsibilities of local authorities

and is available from the GOV.UK website (see References section under Chapter 3 for a link).

The health commissioning duty

3.65 As health service commissioners, CCGs have a duty under Section 3 of the NHS Act 2006 to arrange health care provision for the people for whom they are responsible to meet their reasonable health needs. (NHS England may also have commissioning responsibility for some children and young people – for example in some secure children's homes – and therefore a similar duty to meet their reasonable needs.) This is the fundamental basis of commissioning in the NHS. Where there is provision which has been agreed in the health element of an EHC plan, health commissioners **must** put arrangements in place to secure that provision. This issue is explored in more detail in Chapter 9.

Schools and post-16 settings as commissioners

3.66 Schools, including early years providers, and post-16 settings can also be commissioners in their own right. Schools have a notional SEN budget and many schools will commission services (such as speech and language therapy, pastoral care and counselling services) to support pupils. Schools **must** work with the local authority in developing the Local Offer, which could include school-commissioned services. The school **must** set out its SEN policy and information on its approach to supporting children and young people with SEN. The school's governing body **must** ensure that arrangements are in place in schools to support pupils at school with medical conditions and should ensure that school leaders consult health and social care professionals, pupils and parents to make sure that the needs of children with medical conditions are effectively supported.

3.67 Joint commissioning arrangements should reflect this local commissioning and should ensure services being commissioned by schools are suitably supported to deliver positive outcomes for children and young people.

Regional commissioning: meeting the needs of children and young people with highly specialised and/or low incidence needs

3.68 Partners should consider strategic planning and commissioning of services or placements for children and young people with high levels of need across groups of authorities, or at a regional level. The benefits include:

- greater choice for parents and young people, enabling them to access a wider range of services or educational settings

- greater continuity of support for children and young people in areas where there is a great deal of movement across local authorities (for example, in London)

NHS England already commissions specialist health services at a regional and national level, so local partners will need to engage and integrate these arrangements to support local joint commissioning activity.

3.69 When a health body is considering a placement that includes an education commitment, such as a placement in residential care, they should consult the local authority prior to the decision being made (see Chapter 10, paragraph 10.49). The Winterbourne View Concordat emphasised the need for high quality local provision – local authorities and CCGs should work together to consider how they will reduce

out-of-area placements. Regional commissioning may help them to do this. Statutory guidance on long-term residential care is available on the GOV.UK website (see References section under Chapter 3 for a link).

Local accountability

3.70 The roles and responsibilities of bodies involved in joint commissioning arrangements are summarised below:

Agency	**Key responsibilities for SEN or Disability**	**Accountability**
Local authority	Leading integration arrangements for Children and Young People with SEN or disabilities	Lead Member for Children's Services and Director for Children's Services (DCS)
Children's and adult social care	Children's and adult social care services **must** co-operate with those leading the integration arrangements for children and young people with SEN or disabilities to ensure the delivery of care and support is effectively integrated in the new SEN system.	Lead Member for Children and Adult Social Care, and Director for Children's Services (DCS), Director for Adult Social Services (DASS).
Health and Wellbeing Board	The Health and Wellbeing Board **must** ensure a joint strategic needs assessment (JSNA) of the current and future needs of the whole local population is developed. The JSNA will form the basis of NHS and local authorities' own commissioning plans, across health, social care, public health	Membership of the Health and Wellbeing Board **must** include at least one local elected councillor, as well as a representative of the local Healthwatch organisation. It **must** also include the local DCS, DASS, and a senior CCG

Agency	**Key responsibilities for SEN or Disability**	**Accountability**

	and children's services. This is likely to include specific needs of children and young people with SEN or disabilities.	representative and the Director of Public Health. In practice, most Health and Wellbeing Boards include more local councillors, and many are chaired by cabinet members.
Clinical Commissioning Group	To co-operate with the local authority in jointly commissioning services, ensuring there is sufficient capacity contracted to deliver necessary services, drawing the attention of the local authority to groups and individual children and young people with SEN or disabilities, supporting diagnosis and assessment, and delivering interventions and review.	CCGs will be held to account by NHS England. CCGs are also subject to local accountability, for example, to the Health and Wellbeing Board for how well they contribute to delivering the local Health and Wellbeing Strategy. Each CCG has a governing body and an Accountable Officer who are responsible for ensuring that the CCG fulfils its duties to exercise its functions effectively, efficiently and economically and to improve the quality of services and the health of the local population whilst maintaining value for money.
NHS England	NHS England commissions specialist services which need to be reflected in local joint commissioning arrangements (for example augmentative and alternative communication systems, or provision for detained children and young people in relevant youth accommodation).	Secretary of State for Health

Healthwatch	Local Healthwatch organisations are a key mechanism for enabling people to share their views and concerns – to ensure that commissioners have a clear	Local Healthwatch organisations represent the voice of people who use health and social care on

Agency	**Key responsibilities for SEN or Disability**	**Accountability**
	picture of local communities' needs and that this is represented in the planning and delivery of local services. This can include supporting children and young people with SEN or disabilities.	the Health and Wellbeing Board. They are independent, but funded by local authorities.
Maintained nurseries and schools (including academies)	Mainstream schools have duties to use best endeavours to make the provision required to meet the SEN of children and young people. All schools **must** publish details of what SEN provision is available through the information report and co-operate with the local authority in drawing up and reviewing the Local Offer. Schools also have duties to make reasonable adjustments for disabled children and young people, to support medical conditions and to inform parents and young people if SEN provision is made for them. More information about the role of early years settings, schools and post-16 institutions is given in Chapters 5 to 7.	Accountability is through Ofsted and the annual report that schools have to provide to parents on their children's progress.

Colleges	Mainstream colleges have duties to use best endeavours to make the provision required to meet the SEN of children and young people. Mainstream and special colleges **must** also co-operate with the local authority in drawing up and reviewing the Local Offer. All colleges have duties to make reasonable adjustments for disabled children and young people. More information about duties on the further education sector is in Chapter 7.	Accountable through Ofsted and performance tables such as destination and progress measures.

3.71 These arrangements do not affect the disagreement resolution and complaints procedures described in Chapter 11. Local authorities **must** include in their Local Offer information on how complaints can be made about services.

4 The Local Offer

What this chapter covers

This chapter explains the statutory duties on local authorities to develop and publish a Local Offer setting out the support they expect to be available for local children and young people with special educational needs (SEN) or disabilities. It covers:

- preparing and reviewing the Local Offer, including involving children, young people and parents and those providing services
- publishing the Local Offer
- publishing comments on the Local Offer and the action to be taken in response
- what **must** be included in the Local Offer
- information, advice and support

Relevant legislation

Primary

Sections 27, 28, 30, 32, 41, 49, and 51-57 of the Children and Families Act

2014 Equality Act 2010

Regulations

The Special Educational Needs and Disability Regulations 2014 (Part 4)

What is the Local Offer?

4.1 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 Education, Health and Care (EHC) plans. In setting out what they 'expect to be available', local authorities should include provision which they believe will actually be available.

4.2 The Local Offer has two key purposes:

- To provide clear, comprehensive, accessible and up-to-date information about the available provision and how to access it, and

- To make provision more responsive to local needs and aspirations by directly involving disabled children and those with SEN and their parents, and disabled young people and those with SEN, and service providers in its development and review

4.3 The Local Offer should not simply be a directory of existing services. Its success depends as much upon full engagement with children, young people and their parents as on the information it contains. The process of developing the Local Offer will help local authorities and their health partners to improve provision.

4.4 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 and disabled children and young people. This could, for example, be provision in a further education college in a neighbouring area or support services for children and young people with particular types of SEN that are provided jointly by local authorities. It should include relevant regional and national specialist provision, such as provision for children and young people with low-incidence and more complex SEN.

4.5 Local authorities and those who are required to co-operate with them need to comply with the Equality Act 2010, including when preparing, developing and reviewing the Local Offer.

4.6 The Special Educational Needs and Disability Regulations 2014 provide a common framework for the Local Offer. They specify the requirements that all local authorities **must** meet in developing, publishing and reviewing their Local Offer, and cover:

- the information to be included
- how the Local Offer is to be published
- who is to be consulted about the Local Offer
- how children with SEN or disabilities and their parents and young people with SEN or disabilities will be involved in the preparation and review of the Local Offer, and
- the publication of comments on the Local Offer and the local authority's response, including any action it intends to take in relation to those comments

4.7 The Local Offer should be:

- **collaborative:** local authorities **must** involve parents, children and young people in developing and reviewing the Local Offer. They **must** also co-operate with those providing services
- **accessible:** the published Local Offer should be easy to understand, factual and jargon free. It should be structured in a way that relates to young people's and parents' needs (for example by broad age group or type of special educational provision). It should be well signposted and well publicised
- **comprehensive**: parents and young people should know what support is expected to be available across education, health and social care from age 0 to 25 and how to access it. The Local Offer **must** include eligibility criteria for services where relevant and make it clear where to go for information, advice and support, as well as how to make complaints about provision or appeal against decisions

- **up to date**: when parents and young people access the Local Offer it is important that the information is up to date

- **transparent:** the Local Offer should be clear about how decisions are made and who is accountable and responsible for them

Preparing and reviewing the Local Offer

Involving children and young people and parents

4.8 Local authorities **must** involve children with SEN or disabilities and their parents and young people with SEN or disabilities in:

- planning the content of the Local Offer

- deciding how to publish the Local Offer

- reviewing the Local Offer, including by enabling them to make comments about it

4.9 Local authorities should do this in a way which ensures that children, young people and parents feel they have participated fully in the process and have a sense of co ownership. This is often referred to as 'co-production'. Local authorities should take steps to ensure that their arrangements for involving children, young people and parents include a broadly representative group of the children with SEN or disabilities and their parents and young people with SEN or disabilities in their area.

Parent Carer Forums, young people's forums and other local groups are useful ways to engage families.

4.10 Local authorities should publicise in their Local Offer the ways in which they will involve children, young people and parents in developing and reviewing it. Local authorities should ensure that they provide support that enables children, young people and parents to contribute to decision-making at this strategic level and the Local Offer should include details of this support, which should include Parent Carer Forums and local voluntary organisations.

Young people

4.11 Local authorities **must** engage young people directly in developing and reviewing the Local Offer and should consider setting up a forum, or a range of forums, to do so. Local authorities should make every effort to engage a cross-section of young people with a range of SEN and disabilities, in a variety of settings and circumstances and at different ages within the 16–25 age range. Local authorities

should make every effort to establish the issues on which young people most want to be engaged. They should also consider using a variety of methods to engage young people. These could include surveys and social media or young people's forums, and making existing consultation groups, such as a local youth council, accessible to young people with SEN or disabilities. Young people should also have opportunities to be engaged independently of their parents.

4.12 When organising participation events for young people, local authorities should endeavour to ensure full accessibility by considering:

- **timing:** holding events when young people are most likely to be free and not when they are likely to be in education (unless arrangements have been made with their education providers)

- **transport:** explaining to young people how to travel to an event, with clear instructions, maps and, particularly in rural areas, details of a taxi service which is accessible to those with disabilities

- **physical accessibility:** for example, access for a number of wheelchair users

- **accessibility of content:** providing materials in different formats and tailored to meet different cognitive abilities and reading skills and supporting different communication needs, avoiding jargon and acronyms wherever possible and where this is not possible, explaining terms used

- **age appropriateness:** keeping membership of young people's forums under review as the participants get older, and bearing in mind the very different stages that young people will be at from the age of 16 to 25

Whatever the means of consultation and engagement local authorities should let participants know the outcome of discussions so that they will know what will happen as a result of their contribution.

Parents

4.13 Effective parent participation can lead to a better fit between families' needs and the services provided, higher satisfaction with services, reduced costs (as long-term benefits emerge), better value for money and better relationships between those providing services and those using them. Local authorities and parents should work together to establish the aims of parent participation, to mark progress and build trust. To enable effective parental participation, local authorities should consider in

particular the timing of events and meetings – for example, organising them during the school day while children are at school and ensuring that parents have enough notice to allow them to organise childcare.

Involving schools, colleges, health services and others

4.14 Local authorities and their partner bodies and agencies **must** co-operate with each other in the development and review of the Local Offer. This is essential so that the Local Offer provides a comprehensive, transparent and accessible picture of the range of services available.

4.15 The most relevant local partners who are required to co-operate with the local authority in relation to the Local Offer include:

- the governing bodies of schools that the local authority maintains
- the proprietors of academies and free schools in the local authority's area
- the proprietors of non-maintained special schools that are in the local authority's area or provide education or training for children and young people in the local authority's area
- the governing bodies of further education colleges and sixth form colleges that are in the local authority's area or are attended or likely to be attended by young people from their area
- the management committees of pupil referral units that are in the local authority's area or are attended or likely to be attended by young people from their area

- the proprietors of independent specialist colleges and independent schools specially organised to make provision for children and young people with SEN which have been included on the list of institutions approved by the Secretary of State for the purpose of enabling parents and young people to request that they are named on an EHC plan and are in the local authority's area or are attended or likely to be attended by children and young people in their area
- any other person (other than a school or college) that makes special educational provision for children or young people for whom the local authority is responsible, including providers of relevant early education
- NHS England and any relevant health bodies including:
    - clinical commissioning groups (CCGs) whose areas coincide with or fall within the local authority's area or which have a duty under section 3 of the

National Health Service Act 2006 to arrange for the provision of services for any children or young people for whom the local authority is responsible

- an NHS Trust or NHS Foundation Trust which provides services in the local authority's area or for children and young people for whom the authority is responsible, or

- a Local Health Board with functions in relation to children and young people for whom the local authority is responsible

4.16 The local authority should engage with the providers of relevant early years education, particularly those in receipt of early education funding.

4.17 The local authority must also ensure that all its officers co-operate with each other in respect of the Local Offer. This must include those whose roles relate to social services or who will contribute to helping young people make a successful transition to adulthood – for example those working in housing and economic regeneration.

Keeping the Local Offer under review

4.18 The requirement on local authorities to publish comments on their Local Offer and their response to those comments is relevant to their duty to keep under review the educational and training provision and social care provision for children and young people with SEN or disabilities and their role in contributing, with their partner CCGs, to Joint Strategic Needs Assessments and the development of local Health and Wellbeing Strategies (see chapter 3).

4.19 Local authorities **must** keep their educational and training provision and social care provision under review and this includes the sufficiency of that provision. When

considering any reorganisation of SEN provision decision makers **must** make clear how they are satisfied that the proposed alternative arrangements are likely to lead to improvements in the standard, quality and/or range of educational provision for children with SEN (School organisation (maintained schools), Annex B: Guidance for Decision-makers, DfE 2014 – see the References section under Chapter 4 for a link).

4.20 Local authorities should link reviews of education, health and social care provision to the development and review of their Local Offer and the action they intend to take in response to comments. This will help to identify gaps in provision and ensure that the Local Offer is responsive to the needs of local children and young people and their families. At a strategic level local authorities should share what they have learned from the comments they receive with local Health and Wellbeing Boards where appropriate, to help inform the development of Health and Wellbeing Strategies and the future provision of services for children and young people with or

without EHC plans.

Publishing comments about the Local Offer

4.21 Local authorities **must** publish comments about their Local Offer received from or on behalf of children with SEN or disabilities and their parents and young people with SEN or disabilities.

4.22 Comments **must** be published if they relate to:

- the content of the Local Offer, which includes the quality of existing provision and any gaps in the provision
- the accessibility of information in the Local Offer
- how the Local Offer has been developed or reviewed

4.23 It is up to local authorities to decide on the format for publishing comments but they should consult children and young people with SEN or disabilities and parents and representative organisations such as Parent Carer Forums and local organisations providing information, advice and support to parents, children and young people about this, including the local authority's Information, Advice and Support Service. They should make clear how they have sought comments about the Local Offer.

4.24 Local authorities **must** publish a summary of comments at least annually, although this is expected to be an ongoing process. They **must** ensure that comments are published in a form that does not enable any individual to be identified.

4.25 Local authorities are not expected to publish responses to every comment individually but could, for example, adopt a 'you said, we did' approach. They are not required to publish abusive or vexatious comments or complaints about the service

provided to an individual since there are established routes to bring such complaints. The Local Offer should make clear what these routes are and how to access them.

Taking action in response to comments about the Local Offer

4.26 Local authorities **must** publish their response to comments received within the Local Offer and this **must** include details of the action they intend to take. They should consult children and young people with SEN or disabilities and the parents of children with SEN or disabilities in relation to the action they intend to take.

4.27 Where appropriate, local authorities should also feed back comments to commissioners of services and the services themselves, including those in neighbouring local authorities. Comments should be used to inform commissioning decisions and decisions about the specific nature and type of provision that local

families want.

4.28 Local authorities should ensure they have access to good quality data to inform their decisions when reviewing provision and taking action to develop their Local Offer.

What must be included in the Local Offer?

4.29 Local authorities **must** include information about all the areas specified in the Special Educational Needs and Disability Regulations 2014. They may wish to include wider information, taking account of their discussions with children with SEN or disabilities and their parents and young people with SEN or disabilities.

4.30 The Local Offer **must** include information about:

- special educational, health and social care provision for children and young people with SEN or disabilities – this should include online and blended learning
- 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 – this should include arrangements for EHC needs assessments
- other educational provision, for example sports or arts provision, paired reading schemes
- post-16 education and training provision
- apprenticeships, traineeships and supported internships

- information about provision to assist in preparing children and young people for adulthood (see paragraphs 4.52 to 4.56)
- arrangements for travel to and from schools, post-16 institutions and early years providers
- support to help children and young people move between phases of education (for example from early years to school, from primary to secondary)
- sources of information, advice and support in the local authority's area relating to SEN and disabilities including information and advice provided under Section 32 of the Children and Families Act 2014, forums for parents and carers and support groups

- childcare, including suitable provision for disabled children and those with SEN

- leisure activities

- support available to young people in higher education, particularly the Disabled Students Allowance (DSA) and the process and timescales for making an application for DSA

- arrangements for resolving disagreements and for mediation, and details about making complaints

- parents' and young people's rights to appeal a decision of the local authority to the First-tier Tribunal (SEN and disability) in respect of SEN and provision

- the local authority's accessibility strategy (under paragraph 1 Schedule 10 to the Equality Act 2010)

- institutions approved under Section 41 of the Children and Families Act 2014

4.31 The Local Offer should cover:

- support available to all children and young people with SEN or disabilities from universal services such as schools and GPs

- targeted services for children and young people with SEN or disabilities who require additional short-term support over and above that provided routinely as part of universal services

- specialist services for children and young people with SEN or disabilities who require specialised, longer term support

Educational, health and care provision

Educational and training provision

4.32 The local authority **must** set out in its Local Offer an authority-wide description of the special educational and training provision it expects to be available in its area and outside its area for children and young people in its area who have SEN or disabilities from providers of relevant early years education, maintained schools, non-maintained special schools, pupil referral units, independent institutions approved under section 41 of the Children and Families Act 2014, and the full range of post-16 providers. This includes information about the arrangements the local authority has for funding children and young people with SEN, including any

agreements about how providers will use any budget that has been delegated to them.

It includes the arrangements providers have in place for:

- identifying the particular SEN of children and young people
- consulting with parents of disabled children with SEN and disabled young people with SEN or disabilities
- securing the services, provision and equipment required by children and young people with SEN or disabilities
- supporting disabled children and young people and those with SEN in moving between phases of education and preparing for adulthood and independent living

and information about:

- approaches to teaching, adaptations to the curriculum and the learning environment for children and young people with SEN or disabilities and additional learning support for those with SEN
- enabling available facilities to be accessed by disabled children and young people and those with SEN (this should include ancillary aids and assistive technology, including Augmentative and Alternative Communication (AAC))
- assessing and reviewing pupils' and students' progress towards outcomes, including how providers work with parents and young people in doing so
- securing expertise among teachers, lecturers or other professionals to support children and young people with SEN or disabilities – this should include professional development to secure expertise at different levels:

  - **awareness** (to give a basic awareness of a particular type of SEN, appropriate for all staff who will come into contact with a child or young person with that type of SEN)
  - **enhanced** (how to adapt teaching and learning to meet a particular type of SEN, for early years practitioners, class and subject teachers/lecturers and teaching assistants working directly with the child or young person on a regular basis), and
  - **specialist** (in-depth training about a particular type of SEN, for staff who will be advising and supporting those with enhanced-level skills

and knowledge)

- assessing and evaluating the effectiveness of the education and training provision the local authority makes for children and young people with SEN or disabilities

- activities that are available to disabled children and young people and those with SEN, including physical activities and extra-curricular activities, and

- supporting the emotional, mental and social development of disabled children and young people and those with SEN (this should include extra pastoral support arrangements for listening to the views of pupils and students with SEN and measures to prevent bullying)

4.33 The above will include arrangements for supporting children who are looked after by the local authority and have SEN.

Schools

4.34 Schools have additional duties under the Special Educational Needs and Disability Regulations 2014. Schools **must** publish more detailed information about their arrangements for identifying, assessing and making provision for pupils with SEN (see Chapter 6, Schools).

4.35 The information **must** also include information about the arrangements for the admission of disabled pupils, the steps taken to prevent disabled pupils from being treated less favourably than other pupils, the facilities provided to assist access for disabled pupils and the schools' accessibility plans. The school-specific information should relate to the schools' arrangements for providing a graduated response to children's SEN. It should elaborate on the information provided at a local authority wide level in the Local Offer.

4.36 The Local Offer **must** make clear where this information can be found and **must** make clear how young people and parents can find relevant information published by post-16 institutions about their SEN provision (see Chapter 7).

Early years

4.37 When securing funded early education for two-, three- and four-year-olds local authorities **must** promote equality of opportunity for disabled children. This should include securing relevant expertise among early years providers and working with parents to ensure that appropriate provision is in place to enable each child to flourish. Local authorities **must** also secure sufficient childcare for working parents

and **must** work with providers to plan and manage local provision to meet the needs of families and children in their area.

4.38 Local authorities **must** publish in their Local Offer information about childcare options available to parents including the range of expertise to support children with SEN or disabilities and should publish information about:

- free early education places and eligibility criteria
- relevant services from other agencies such as Portage, Health Visitors and Early Support
- arrangements for identifying and assessing children's needs in the early years •

support available to parents to aid their child's development at home, and

- arrangements for reviewing children's progress, including progress checks and health and development reviews between the ages of 2 and 3

Other educational provision

4.39 Information about educational provision **must** include where to find the list of non maintained special schools and independent schools catering wholly or mainly for children with SEN, and Independent Specialist Colleges in England, including details of which institutions have been approved by the Secretary of State, to give parents and young people a statutory right to request that they are named on an EHC plan. It should also include:

- the special educational provision (including Area SEN co-ordinators (SENCOs), and SEN support or learning support services, sensory support services or specialist teachers, and therapies such as speech and language therapy where they educate or train a child or young person) made available to mainstream schools, early years providers, special units, alternative

provision and other settings (including home-based services), whether provided by the local authority or others

- local arrangements for collaboration between institutions to support those with SEN (for example, cluster or partnership working between post-16 institutions or shared services between schools)
- the local authority's arrangements for providing top-up funding for children and young people with high needs in mainstream and specialist settings

• support for children and young people who have been released from custody – this should include support offered by Youth Offending Teams in relation to education

Health

4.40 Building on the Joint Strategic Needs Assessment the Local Offer **must** include information about provision made by health professionals for children and young people with SEN or disabilities. This **must** include:

• services assisting relevant early years providers, schools and post-16 institutions to support children and young people with medical conditions, and

• arrangements for making those services which are available to all children and young people in the area accessible to those with SEN or disabilities

It should also include:

• speech and language therapy and other therapies such as physiotherapy and occupational therapy and services relating to mental health (these **must** be treated as special educational provision where they educate or train a child or young person (see Chapter 9 paragraphs 9.73 to 9.76)

• wheelchair services and community equipment, children's community nursing, continence services

• palliative and respite care and other provision for children with complex health needs

• other services, such as emergency care provision and habilitation support

• provision for children and young people's continuing care arrangements (including information on how these are aligned with the local process for developing EHC plans, which is described in Chapter 3), and

• support for young people when moving between healthcare services for children to healthcare services for adults

4.41 Local authorities and their partner CCGs **must** work together to ensure that this information is available through the Local Offer.

Social care and other provision

4.42 The Local Offer **must** include information about social care services and other provision supporting children and young people with SEN or disabilities. This should include:

- childcare
- leisure activities
- support for young people when moving between social care services for children to social care services for adults, including information on how and when the transfer is made
- support for young people in living independently and finding appropriate accommodation and employment

4.43 Under the Care Act 2014 local authorities **must** provide an information and advice service on the adult care and support system. This should include information on types of care and support, local provision and how to access it, accessing financial advice in relation to it and how to raise concerns**.** Local authorities **must** indicate in their Local Offer where this information can be found.

4.44 Local authorities **must** provide a range of short breaks for disabled children, young people and their families, and prepare a short breaks duty statement giving details of the local range of services and how they can be accessed, including any eligibility criteria (The Breaks for Carers of Disabled Children Regulations 2011). Local authorities **must** publish a short breaks statement on their website and review it on a regular basis, taking account of the needs of local parents and carers. The statement will therefore form a core part of the Local Offer.

4.45 Parent carers of disabled children often have significant needs for support, to enable them to support their children effectively. It is important that children's and adult services work together to ensure needs are met. The Local Offer **must** set out the support groups and others who can support parent carers of disabled children and how to contact them. Part 3 of the Children Act 1989 gives individuals with parental responsibility for a disabled child the right to an assessment of their needs by a local authority. Local authorities **must** assess on the appearance of need, as well as on request, and **must** explicitly have regard to the wellbeing of parent carers in

undertaking an assessment of their needs. Following a parent carer's needs assessment, the local authority **must** decide whether the parent carer needs support to enable them to support their disabled child and, if so, decide whether to provide services under section 17 of the Children Act 1989. Relevant services may include short breaks provision and support in the home.

Training and apprenticeships

4.46 The Local Offer **must** identify training opportunities, supported employment services, apprenticeships, traineeships, supported internships and support available from supported employment services available to young people in the area to provide a smooth transition from education and training into employment. This should include information about additional support available to young people – for example via the Department for Work and Pensions' Access to Work fund – such as teaching and learning support, job coaching in the workplace, and provision of specialist equipment. Local authorities should engage with providers of apprenticeships and traineeships and educational institutions offering supported internships to ensure that the information they publish is of good quality and to identify providers who have particular expertise relevant to young people with SEN or disabilities.

4.47 Local authorities should include information on how young people can apply for these opportunities or make clear in their Local Offer where this information can be found. The information should include any entry requirements, including age limits and educational attainment.

Transport

4.48 Transport can be an important factor in the support for children and young people with SEN or disabilities. The Local Offer **must** include information about arrangements for transport provision, including for those up to age 25 with an EHC plan, and this should include local authorities' policy statements.

4.49 Local authorities **must** ensure that suitable travel arrangements are made where necessary to facilitate an eligible child's attendance at school. Section 508B of the Education Act 1996 requires local authorities to make such school travel arrangements as they consider necessary for children within their area. Such arrangements **must** be provided free of charge. Section 508C of the Act gives local authorities discretionary powers to make school travel arrangements for other children not covered by section 508B. Such transport does not have to be provided free of charge.

4.50 Local authorities **must** publish a transport policy statement each year setting out the travel arrangements they will make to support young people aged 16-19 and learners with learning difficulties and/or disabilities (LDD) aged up to 25, to access

further education. This should include any arrangements for free or subsidised transport.

4.51 Local authorities **must** include in their Local Offer information about:

- any specific arrangements for specialised transport (for example, specially fitted buses)

- any support available from the local authority or others with transport costs

and should include information about:

- any support that is offered to children and young people to help them use transport, including public transport, and

- any training given to aid independent travel

Support available to children and young people to help them prepare for adulthood

4.52 Local authorities **must** set out in the Local Offer the support available to help children and young people with SEN or disabilities move into adulthood. Support should reflect evidence of what works in achieving good outcomes and **must** include information about preparing for and finding employment, finding somewhere to live, and participating in the community.

4.53 Preparing for and finding employment should include information about:

- pathways to employment such as apprenticeships, traineeships and supported internships and how to apply for them

- support available from supported employment services, such as job coaches, and how to obtain that support

- support available from employment agencies

- support available from Year 8 to help children and young people plan their careers, including signposting to where they can obtain information and advice about setting up their own enterprise, and

- financial support available, including from the Department for Work and Pensions, when people with learning difficulties or disabilities are looking for work or once they are employed, including 'in work' benefit calculations and specialist advice on Work Choice, Residential Training, The Work Programme and Access to Work

4.54 Finding somewhere to live should include information about:

- finding accommodation, including information about different housing options

such as social housing, housing association accommodation, private renting, shared housing and shared ownership

- how to apply for accommodation, and where to get financial and other support (such as a personal assistant, assistive technology or modifications to a home) and more detailed advice on accommodation

- advice, for people eligible for social care or health support, about what support is available to help them personally, for example in managing their Personal Budget or recruiting a personal assistant, and

- opportunities and support to learn the skills needed to live in supported, semi supported or independent accommodation

4.55 Participating in the community should include information about:

- leisure and social activities, including opportunities for influencing local decision-making

- how young people can access mainstream community facilities and local youth services (for example, access to staff with expertise in supporting young people with different needs)

- volunteering opportunities and the support available to access them

- care support available to help young people access social opportunities (for example, a personal assistant or assistive technology) and develop friendships, and how to apply for that support, and

- support in using the internet and social media to find information and develop and maintain friendships, including where they can go for guidance on using the internet safely and how to protect themselves against cyber-bullying and exploitation

4.56 The Care Act 2014 requires local authorities to establish and maintain a service for providing people in its area with information and advice about the adult care and support system.

Information about how to seek an EHC needs assessment

4.57 The Local Offer **must** include information about how to request a needs assessment for an EHC plan. A request is likely to happen where special educational provision currently being made for them by their early years setting, school or college from their own resources, is not enabling the child or young person to make adequate progress.

4.58 The information should include:

- how the local authority will consider a request for an assessment and inform parents and young people of their decision
- how parents, children and young people will be involved in the assessment process
- what support is available to help families during the needs assessment process and the development of an EHC plan
- the timescales involved in the assessment process
- the process for making an EHC plan

and **must** include:

- information about the option of having a Personal Budget, including a local policy for Personal Budgets, produced with parents and young people. This should provide:
    - a description of the services across education, health and social care that currently lend themselves to the use of Personal Budgets
    - the mechanisms of control for funding available to parents and young people including direct payments, arrangements and third party arrangements (see Chapter 9, Education, Health and Care needs assessments and plans)
    - clear and simple statements setting out eligibility criteria and the decision-making processes that underpin them
    - the support available to help families manage a Personal Budget
- arrangements for complaints, mediation, disagreement resolution and appeals

Information, advice and support

4.59 The Local Offer **must** provide information for children, parents and young people about where to get information and advice.

4.60 All local authorities **must** have arrangements for information and advice and should ensure that advice and guidance for children and young people is tailored appropriately for them (see Chapter 2).

4.61 Clear, comprehensive and accessible information should be published about the support available to children and young people with SEN and disabled children and young people and the opportunities to participate in strategic decision-making. Local authorities and CCGs **must** ensure that they publicise the availability of information and advice and opportunities to participate in strategic decision-making. Early years providers, schools, colleges, and other relevant services should tell parents and young people about the availability of local impartial information, advice and support. For young people this should include access to information, advice and support on preparing for adulthood, such as advice and support on securing paid employment and/or meaningful occupation, independent living and finding accommodation, health and social care and participating actively in their local communities.

Publishing the Local Offer

4.62 Local authorities **must** make their Local Offer widely accessible and on a website. They **must** publish their arrangements for enabling those without access to the internet to get the information. They **must** also enable access for different groups, including disabled people and those with different types of SEN.

5 Early years providers

What this chapter covers

This chapter explains the action early years providers should take to meet their duties in relation to identifying and supporting all children with special educational needs (SEN), whether or not they have an Education, Health and Care (EHC) plan.

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 SEN but no EHC plan: Section 34 •

Children with SEN in maintained nurseries: Section 35

• Using best endeavours to secure special educational provision: Section 66 •

SEN co-ordinators: Section 64

• 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 Statutory Framework for the Early Years Foundation Stage

The Special Educational Needs and Disability Regulations

2014

Improving outcomes: high aspirations and expectations for children with SEN

5.1 All children are entitled to an education that enables them to:

• achieve the best possible educational and other outcomes, and

• become confident young children with a growing ability to communicate their own views and ready to make the transition into compulsory education

5.2 Providers of early years education, that is all early years providers in the maintained, private, voluntary and independent sectors that a local authority funds, are required to have regard to this Code including the principles set out in Chapter 1.

5.3 The Early Years Foundation Stage (EYFS) is the statutory framework for children aged 0 to 5 years. All early years providers **must** follow the safeguarding and welfare requirements of the EYFS and the learning and development requirements, unless an exemption from these has been granted.

5.4 Providers **must** have arrangements in place to support children with SEN or disabilities. These arrangements should include a clear approach to identifying and responding to SEN. The benefits of early identification are widely recognised –

identifying need at the earliest point, and then making effective provision, improves long-term outcomes for children.

5.5 All those who work with young children should be alert to emerging difficulties and respond early. In particular, parents know their children best and it is important that all practitioners listen and understand when parents express concerns about their child's development. They should also listen to and address any concerns raised by children themselves.

5.6 Maintained nursery schools **must**:

- use their best endeavours to make sure that a child with SEN gets the support they need
- ensure that children with SEN engage in the activities of school alongside children who do not have SEN
- designate a teacher to be responsible for co-ordinating SEN provision (the SEN co-ordinator, or SENCO)
- inform parents when they are making special educational provision for a child

They **must** also prepare a report on:

- the implementation of their SEN policy
- their arrangements for the admission of disabled children
- the steps being taken to prevent disabled children from being treated less favourably than others
- the facilities provided to enable access to the school for disabled children, and
- their accessibility plan showing how they plan to improve access over time

5.7 Early years providers **must** provide information for parents on how they support children with SEN and disabilities, and should regularly review and evaluate the quality and breadth of the support they offer or can access for children with SEN or disabilities. Maintained nursery schools and all providers of relevant early education to children with SEN **must** co-operate with the local authority in reviewing the provision that is available locally (see Chapter 3), and in developing the Local Offer (see Chapter 4). Providers should work in partnership with other local education providers to explore how different types of need can be met most effectively.

5.8 Local authorities **must** ensure that all providers they fund in the maintained, private, voluntary and independent sectors are aware of the requirement on them to have regard to the SEN Code of Practice and to meet the needs of children with SEN and disabilities. When securing funded early education for two-, three- and four-year-olds local authorities should promote equality and inclusion for children with disabilities or SEN. This includes removing barriers that prevent children accessing early education and working with parents to give each child support to fulfil their potential.

5.9 Where assessment indicates that support from specialist services is required, it is important that children receive it as quickly as possible. Joint commissioning arrangements should seek to ensure that there are sufficient services to meet the likely need in an area (Chapter 3, Working together across Education, Health and Care for joint outcomes). The Local Offer should set out clearly what support is available from different services, including early years, and how it can be accessed.

Equality Act 2010

5.10 All early years providers have duties under the Equality Act 2010. In particular, they **must not** discriminate against, harass or victimise disabled children, and they **must** make reasonable adjustments, including the provision of auxiliary aids and services for disabled children, to prevent them being put at substantial disadvantage. This duty is anticipatory – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be