

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**

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'

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 2014 Code of Practice for Children and Young People with Special Educational Needs (SEN) - A Summary

- 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

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

Section 19 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 eiri(ng)ŵ Tong people

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

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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**

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

- 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 t

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

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

2.5

- 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

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

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

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

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
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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 disagreementsi63aep0.280.001 (ent)-fdcare0.003 Tw -30.69 -1

The joint commissioning cycle

Establishing effective partnerships across education, health and care

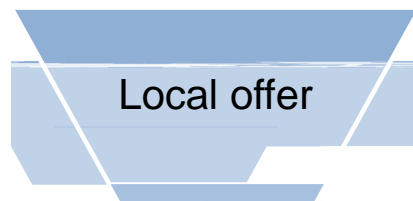
- 3.13 Local authorities **must** work to integrate educational provision and training provision with health and social care provision where they think that this would promote the wellbeing of children and young people with SEN or disabilities, or improve the quality of special educational provision. 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 includes requirements for local agencies to work together to assess the social care needs of individual children and

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.



Joint commissioning



- 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

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

- 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

- identify and establish the information,

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

- 3.47 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

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**

- 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

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)	<p>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.</p> <p>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.</p> <p>More information about the role of early years settings, schools and post-16 institutions is given in Chapters 5 to 7.</p>	Accountability is through Ofsted and the annual report that schools have to provide to parents on their children's progress.
Colleges	<p>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.</p> <p>All colleges have duties to make reasonable adjustments for disabled children and young people.</p> <p>More information about duties on the further education sector is in Chapter 7.</p>	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 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

- 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

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

- **awareness** (to

4.36 The Local O

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 other

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- 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

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

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

- the implementation of their SEN policy
-

- identify the child's progress, strengths and needs at this age in order to

- 5.41 Parents should be involved in planning support and, where appropriate, in reinforcing the provision or contributing to progress at home.

Do

- 5.42 The early years practitioner, usually the child's key person, remains responsible for working with the child on a daily basis. With support from the SENCO, they should oversee the implementation of the interventions or programmes agreed as part of SEN support. The SENCO should support the practitioner in assessing the child's response to the action taken, in problem solving and advising on the effective implementation of support.

Review

- 5.43 The effectiveness of the support and its impact on the child's progress should be reviewed in line with the agreed date. The impact and quality of the support should be evaluated by the practitioner and the SENCO working with the child's parents and taking into account the child's views. They should agree any changes to the outcomes and support for the child in light of the child's progress and development. Parents should have clear information about the impact of the support provided and be involved in planning next steps.
- 5.44 This cycle of action should be revisited in increasing detail and with increasing frequency, to identify the best way of securing good progress. At each stage parents should be engaged with the setting, contributing their insights to assessment and planning. Intended outcomes should be shared with parents and reviewed with them, along with action taken by the setting, at agreed times.
- 5.45 The graduated approach should be led and co-ordinated by the setting SENCO working with and supporting individual practitioners in the setting and informed by EYFS materials, the Early Years Outcomes guidance and Early Support resources (information is available at the National Children's Bureau website – see the References section under Chapter 5 for the link).
- 5.46 Where a child has an EHC plan, the local authority **must** review that plan as a minimum every twelve months. As part of the review, the local authority can ask settings, and require maintained nursery schools, to convene and hold the annual review meeting on its behalf. Further information about EHC plan reviews and the role of early years settings is in Chapter 9, Education, Health and Care needs assessments and plans.

- supporting the development and delivery of training both for individual settings and on a wider basis
- developing links with existing SENCO networks to support smooth transitions to school nursery and reception classes, and
- informing parents of and working with local impartial Information, Advice and Support Services, to promote effective work with parents of children in the early years

5.57 The Area SENCO plays an important part in planning for children with SEN to transfer between early years provision and schools.

5.58 Where there is an Area SENCO in place, they will want to work with early years providers who are registered with either Ofsted or a childminder agency. They should consider how they work with and provide advice to childminder agencies and their registered providers in supporting children with SEN.

Funding for SEN support in the early years

5.59 Local authorities **must** ensure that all providers delivering funded early education places meet the needs of children with SEN and disabled children. In order to do this local authorities should make sure funding arrangements for early education reflect the need to provide suitable support for these children.

5.60 Early years providers should consider how best to use their resources to support the progress of children with SEN.

6 Schools

What this chapter covers

This chapter applies mostly to mainstream schools. The Equality Act duties described under 'Equality and inclusion' and the duty to publish an SEN information report under 'Publishing information: SEN information report' apply to special schools, as do schools' duties in respect of EHC needs assessments and plans (Chapter 9 – Education, Health and Care needs assessments and plans). The chapter explains the action that mainstream schools 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 special educational needs but no EHC plan: Section 29
- Children with SEN in maintained nurseries and mainstream schools: Section 35
- Using best endeavours to secure special educational provision: Section 66
- SEN co-ordinators: Section 67
- Informing parents and young people: Section 68
- SEN information report: Section 69
- Duty to support pupils with medical conditions: Section 100

The Equality Act 2010

Regulations

The Special Educational Needs and Disability Regulations 2014

Improving outcomes: high aspirations and expectations for children and young people with SEN

- 6.1 All children and young people are entitled to an appropriate education, one that is appropriate to their needs, promotes high standards and the fulfilment of potential. This should enable them to:
- achieve their best
 - become confident individuals living fulfilling lives, and
 - make a successful transition into adulthood, whether into employment, further or higher education or training
- 6.2 Every school is required to identify and address the SEN of the pupils that they support. Mainstream schools, which in this chapter includes maintained schools and academies that are not special schools, maintained nursery schools, 16 to 19 academies, alternative provision academies and Pupil Referral Units (PRUs), **must**:
- use their best endeavours to make sure that a child with SEN gets the support they need – this means doing everything they can to meet children and young people's SEN
 - ensure that children and young people with SEN engage in the activities of the school alongside pupils who do not have SEN
 - designate a teacher to be responsible for co-ordinating SEN provision – the SEN co-ordinator, or SENCO (this does not apply to 16 to 19 academies)
 - inform parents when they are making special educational provision for a child
 - prepare an SEN information report (see 'Publishing information: SEN information report', paragraph 6.78 onwards) and 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 progressively over time
- 6.3 There should be a member of the governing body or a sub-committee with specific oversight of the school's arrangements for SEN and disability. School leaders should regularly review how expertise and resources used to address SEN can be used to build the quality of whole-school for coreguld

- 6.4 The quality of teaching for pupils with SEN, and the progress made by pupils, should be a core part of the school's performance management arrangements and its approach to professional development for all teaching and support staff. School leaders and teaching staff, including the SENCO, should identify any patterns in the identification of SEN, both within the school and in comparison with national data, and use these to reflect on and reinforce the quality of teaching. Many aspects of this whole school approach have been piloted by Achievement for All – for further details and links to other sources of training and support materials, see Annex 2: Improving practice and staff training in education settings.
- 6.5 The identification of SEN should be built into the overall approach to monitoring the progress and development of all pupils.
- 6.6 A mainstream school's arrangements for assessing and identifying pupils as having SEN should be agreed and set out as part of the Local Offer. A school should publish its arrangements as part of the information it makes available on SEN (see the Special Educational Needs and Disability Regulations 2014).
- 6.7 In fulfilling these duties schools should have regard to the principles set out in Chapter 1. In particular, they should ensure that children, parents and young people are actively involved in decision-making throughout the approaches set out in this chapter.

Equality and inclusion

- 6.8 Schools support pupils with a wide range of SEN. They should regularly review and

- 6.10 Further duties are referred to in the Introduction. The guidance in this chapter should be read in the light of the principle in Chapter 1 which focuses on inclusive practice and removing barriers to learning.

Medical conditions

- 6.11 The Children and Families Act 2014 places a duty on maintained schools and academies to make arrangements to support pupils with medical conditions. Individual healthcare plans will normally specify the type and level of support required to meet the medical needs of such pupils. Where children and young people also have SEN, their provision should be planned and delivered in a co-ordinated way with the healthcare plan. Schools are required to have regard to statutory guidance ‘[Statutory guidance on medical conditions in schools](#)’ (see the References section under Introduction for a link).

Curriculum

- 6.12 All pupils should have access to a broad and balanced curriculum. The National Curriculum Inclusion Statement states that teachers should set high expectations for every pupil, whatever their prior attainment. Teachers should use appropriate assessment to set targets which are deliberately ambitious. Potential areas of difficulty should be identified and addressed at the outset. Lessons should be planned to address potential areas of difficulty and to remove barriers to pupil achievement. In many cases, such planning will mean that pupils with SEN and disabilities will be able to study the full national curriculum.

Careers guidance for children and young people

- 6.13 Maintained schools and PRUs must ensure that pupils from Year 8 until Year 13 are provided with independent careers guidance. Academies are subject to this duty through their funding agreements. Chapter 8 provides more information about careers guidance for children and young people.

Identifying SEN in schools

- 6.14 All schools should have 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 the child or young person.
- 6.15 A pupil has SEN where their learning difficulty or disability calls for special educational provision, namely provision different from or additional to that normally available to pupils of the same age. Making higher quality teaching normally available to the whole class is likely to mean that fewer pupils will require such

support. Such improvements in whole-class provision tend to be more cost effective and sustainable.

6.16 Schools should assess each pupil's current skills and levels of attainment on entry, building on information from previous settings and key stages where appropriate. At the same time, schools should consider evidence that a pupil may have a disability under the Equality Act 2010 and, if so, what reasonable adjustments may need to be made for them.

6.17

- 6.21 Persistent disruptive or withdrawn behaviours do not necessarily mean that a child or young person has SEN. Where there are concerns, there should be an assessment to determine whether there are any causal factors such as undiagnosed learning difficulties, difficulties with communication or mental health issues. If it is thought housing, family or other domestic circumstances may be contributing to the presenting behaviour a multi-agency approach, supported by the use of approaches such as the Early Help Assessment, may be appropriate. In all cases, early identification and intervention can significantly reduce the use of more costly intervention at a later stage.
- 6.22 Professionals should also be alert to other events that can lead to learning difficulties or wider mental health difficulties, such as bullying or bereavement. Such events will not always lead to children having SEN but it can have an impact on wellbeing and sometimes this can be severe. Schools should ensure they make appropriate provision for a child's short-term needs in order to prevent problems escalating. Where there are long-lasting difficulties schools should consider whether the child might have SEN. Further guidance on dealing with bullying issues can be found on the GOV.UK website – a link is given in the References section under Chapter 6.
- 6.23 Slow progress and low attainment do not necessarily mean that a child has SEN and should not automatically lead to a pupil being recorded as having SEN. However, they may be an indicator of a range of learning difficulties or disabilities. Equally, it should not be assumed that attainment in line with chronological age means that there is no learning difficulty or disability. Some learning difficulties and disabilities occur across the range of cognitive ability and, left unaddressed may lead to

- 6.26 There is a wide range of information available on appropriate interventions for pupils with different types of need, and associated training which schools can use to ensure they have the necessary knowledge and expertise to use them. See the References section under Chapter 6 for links to organisations that provide this information.
- 6.27 These four broad areas give an overview of the range of needs that should be planned for. The purpose of identification is to work out what action the school needs to take, not to fit a pupil into a category. In practice, individual children or young people often have needs that cut

children are likely to have severe and complex learning difficulties as well as a physical disability or sensory impairment.

- 6.31 Specific learning difficulties (SpLD), affect one or more specific aspects of learning. This encompasses a range of conditions such as dyslexia, dyscalculia and dyspraxia.

Social, emotional and mental health difficulties

- 6.32 Children and young people may experience a wide range of social and emotional difficulties which manifest themselves in many ways. These may include becoming

Special educational provision in schools

- 6.36 Teachers are responsible and accountable for the progress and development of the pupils in their class, including where pupils access support from teaching assistants or specialist staff.

6.42 The outcomes considered should include those needed to make successful transitions between phases of education and to prepare for adult life. Schools should engage with secondary schools or FE providers as necessary to help plan for these transitions (see Chapter 8, Preparing for adulthood from the earliest years). The agreed actions may also include those taken to make sure the school meets its duty to ensure that pupils with SEN engage in school activities together with those who do not have SEN.

6.43 However support is provided, a clear date for reviewing progress should be agreed and the parent, pupil and teaching staff should each be clear about how they will help the pupil reach the expected outcomes. The overriding purpose of this early

learning. Where it is decided that a pupil does have SEN, the decision should be

that special educational provision is being made. Arrangements for appropriate

support should be made through the school's approach. e.1153(o)5(r)--3(hood)TJ0 Tc 0 Tw (xE i)89.

developed. For some types of SEN, the way in which a pupil responds to an intervention can be the most reliable method of developing a more accurate picture of need.

6.47 In some cases, outside professionals from health or social services may already be involved with the child. These professionals should liaise with the school to help

assessment (see Chapter 9).

that are less so. It can support schools to improve their core offer for all pupils as the most effective approaches are adopted more widely across the school.

- 6.78 The Department for Education publishes a helpful range of further information and resources about provision mapping (see the References section under Chapter 6 for a link).

Publishing information: SEN information report

- 6.79 The governing bodies of maintained schools and maintained nursery schools and the proprietors of academy schools **must** publish information on their websites about the implementation of the governing body's or the proprietor's policy for pupils with SEN. The information published should be updated annually and any changes to the information occurring during the year should be updated as soon as possible. The information required is set out in the Special Educational Needs and Disability Regulations 2014 and **must** include information about:

- the kinds of SEN that are provided for
- policies for identifying children and young people with SEN and assessing their needs, including the name and contact details of the SENCO (mainstream schools)
- arrangements for consulting parents of children with SEN and involving them in their child's education
- arrangements for consulting young people with SEN and involving them in their education
- arrangements for assessing and reviewing children and young people's progress towards outcomes. This should include the opportunities available to work with parents and young people as part of this assessment and review
- arrangements for supporting children and young people in movi (en an)-55(t)-3f9 51 sh-1(

- the expertise and training of staff

The role of the SENCO in schools

- 6.84 Governing bodies of maintained mainstream schools and the proprietors of mainstream academy schools (including free schools) **must** ensure that there is a qualified teacher designated as SENCO for the school.
- 6.85 The SENCO **must** be a qualified teacher working at the school. A newly appointed SENCO **must** be a qualified teacher and, where they have not previously been the SENCO at that or any other relevant school for a total period of more than twelve months, they **must** achieve a National Award in Special Educational Needs Co-ordination within three years of appointment.
- 6.86 A National Award **must** be a postgraduate course accredited by a recognised higher education provider. The National College for Teaching and Leadership has worked with providers to develop a set of learning outcomes (see the References section under Chapter 6 for a link). When appointing staff or arranging for them to study for a National Award schools should satisfy themselves that the chosen course will meet these outcomes and equip the SENCO to fulfil the duties outlined in this Code. Any selected course should be at least equivalent to 60 credits at postgraduate study.

- advising on the deployment of the school's delegated budget and other resources to meet pupils' needs effectively
- liaising with parents of pupils with SEN
- liaising with early years providers, other schools, educational psychologists, health and social care professionals, and independent or voluntary bodies
- being a key point of contact with external agencies, especially the local authority and its support services
- liaising with potential next providers of education to ensure a pupil and their parents are informed about options and a smooth transition is planned
- working with the headteacher and school governors to ensure that the school meets its responsibilities under the Equality Act (2010) with regard to reasonable adjustments and access arrangements
- ensuring that the school keeps the records of all pupils with SEN up to date

6.91 The school should ensure that the SENCO has

is also applied to local academies. School and academy sixth forms receive an allocation based on a national funding formula.

- 6.96 Schools have an amount identified within their overall budget, called the notional SEN budget. This is not a ring-fenced amount, and it is for the school to provide high quality appropriate support from the whole of its budget.
- 6.97 It is for schools, as part of their normal budget planning, to determine their approach to using their resources to support the progress of pupils with SEN. The SENCO, headteacher and governing body or proprietor should establish a clear picture of the resources that are available to the school. They should consider their strategic approach to meeting SEN in the context of the total resources available, including any resources targeted at particular groups, such as the pupil premium.
- 6.98 This will enable schools to provide a clear description of the types of special educational provision they normally provide and will help parents and others to understand what they can normally expect the school to provide for pupils with SEN.
- 6.99 Schools are not expected to meet the full costs of more expensive special educational provision from their core funding. They are expected to provide additional support which costs up to a nationally prescribed threshold per pupil per year. The responsible local authority, usually the authority where the child or young person lives, should provide additional top-up funding where the cost of the special educational provision required to meet the needs of an individual pupil exceeds the nationally prescribed threshold.

7 Further education

What this chapter covers

This chapter explains and provides guidance on the statutory duties on further education colleges, sixth form colleges, 16-19 academies and some independent specialist colleges approved under Section 41 of the Children and Families Act 2014 to identify, assess and provide support for young people with special educational needs (SEN).

Relevant legislation

Primary

The following sections of the Children and Families Act 2014:

- Co-operating generally: local authority functions: Section 28
- Co-operating generally: governing body function: Section 29
- Children and young people with SEN but no plan: Section 34
- Independent specialist schools and special post-16 institutions – approval: Section 41
- Schools and other institutions named in EHC plan: duty to admit: Section 43
- Using best endeavours to secure special educational provision: Section 66
- Code of Practice: Section 77

The Equality Act 2010

Regulations

The Special Educational Needs and Disability Regulations 2014

Introduction

- 7.1 The post-16 education and training landscape is very diverse. It encompasses school sixth forms (both mainstream and special schools), sixth form colleges, general further education (FE) colleges, 16-19 academies, special post-16 institutions, and vocational learning and training providers in the private or voluntary sector. The range of available study programmes is broad and includes AS/A-levels, vocational qualifications at all levels, apprenticeships, traineeships, supported internships and bespoke packages of learning. School provision is covered in Chapter 6.

details on the disability discrimination duties in the Equality Act 2010. The guidance in this chapter should be read in the light of the principles in Chapter 1 which focus on inclusive practice and removing barriers to learning.

Careers guidance for young people

- 7.9 FE colleges and sixth form colleges are required through their funding agreements to secure access to independent careers guidance for all students up to and including age 18 and for 19- to 25-year-olds with EHC plans. Chapter 8 provides more information about careers guidance for children and young people.

Identifying SEN

- 7.10 Colleges should be involved in transition planning between school and college so that they can prepare to meet the student's needs and ensure a successful transition into college life. Chapter 8, paragraphs 8.22 to 8.28, gives guidance to schools and colleges on how they should work together to smooth that transition. Colleges should give all applicants an opportunity before or at entry and at subsequent points, to declare whether they have a learning need, a disability or a medical condition which will affect their learning. If a student makes a declaration the college should discuss with the student how they will provide support. Any screenings and assessments should be differentiated and proportionate to the likely level of SEN.
- 7.11 Some needs may emerge after a student has begun a programme. Teaching staff should work with specialist support to identify where a student may be having difficulty which may be because of SEN.
- 7.12 Students who fell behind at school, or who are studying below level 2, should have their needs identified and appropriate support should be provided. It should not be assumed that they have SEN just because they have lower attainment levels than the majority of their peers. They may do, but this should be identified specifically and supported. Equally it should not be assumed that students working on higher level courses do not have any learning difficulty or disability that may need special educational provision.

SEN support in college

- 7.13 Where a student has a learning difficulty or disability that calls for special educational provision, the college **must** use its best endeavours to put appropriate support in place. Young people should be supported to participate in discussions about their aspirations, their needs, and the support that they think will help them best. Support should be aimed at promoting student independence and enabling the young person to make good progress towards employment and/or higher education, independent living, good health and participating in the community. Chapter 8 provides guidance on preparing young people for adult life.

Putting the provision in place

- 7.18 Colleges should ensure that the agreed support is put in place, and that appropriately qualified staff provide the support needed. The college should, in discussion with the student, assess the impact and success of the intervention.

Keeping support under review

- 7.19 The effectiveness of the support and its impact on the student's progress should be reviewed regularly, taking into account the student's progress and any changes to the student's own ambitions and aspirations, which may lead to changes in the type and level of their support. The college and the student together should plan any changes in support. Colleges should revisit this cycle of action, refining and revising their decisions about support as they gain a richer understanding of the student, and what is most effective in helping them secure good outcomes. Support for all students with SEN should be kept under review, whether or not a student has an EHC plan.
- 7.20 Where a student has an EHC plan, the local authority **must** review that plan as a minimum every twelve months, including a review of the student's support. The college **must** co-operate with the local authority in the review process. As part of the review, the local authority can ask the college to convene and hold the annual review meeting on its behalf. Further information about EHC plan reviews and the role of colleges is given in Chapter 9, Education, Health and Care needs assessments and plans. From the age of thirteen onwards, annual reviews focus on preparing for adulthood. Further information on pathways to employment and on support for young people in preparing for adult life is set out in Chapter 8, Preparing for adulthood from the earliest years.
- 7.21 Colleges should also keep under review the reasonable adjustments they make under the Equality Act 2010 to ensure they have removed all the barriers to learning that they reasonably can. Colleges should also ensure that students with SEN or disabilities know who to go to for support.

Expertise within and beyond the college

- 7.22 The governing bodies of colleges should ensure that all staff interact appropriately and inclusively with students who have SEN or a disability and should ensure that they have appropriate expertise within their workforce. They should also ensure that curriculum staff are able to develop their skills, are aware of effective practice and keep their knowledge up to date. Colleges should make sure they have access to specialist skills and expertise to support the learning of students with SEN. This can be through partnerships with other agencies such as adult social care or health services, or specialist organisations, and/or by employing practitioners directly. They should ensure that there is a named person in the college with oversight of SEN provision to ensure co-ordination of support, similar to the role of the SEN Co-

ordinator (SENCO) in schools. This person should contribute to the strategic and operational management of the college. Curriculum and support staff in a college should know who to go to if they need help in identifying a student's SEN, are concerned about their progress or need further advice. In reviewing and managing support for students with SEN, colleges and 16-19 academies may find the broad areas of need and support outlined in Chapter 6 helpful (paragraph 6.28 onwards).

- 7.23 Colleges should ensure they have access to external specialist services and expertise. These can include, for example, educational psychologists, Child and Adolescent Mental Health Services (CAMHS), spe

7.27 Further information on support to help children and young people prepare for adulthood, including pathways to employment and the transition to adult services, is in Chapter 8. Information about seeking needs assessments and about EHC plans is in Chapter 9.

- 7.33 It should be noted that colleges are funded by the Education Funding Agency (EFA) for all 16-18 year olds and for those aged 19-25 who have EHC plans, with support from the home local authority for students with high needs. Colleges **must not** charge tuition fees for these young people. Further information on funding can be found on the GOV.UK website – see the References section under Chapter 7 for a link.
- 7.34 Colleges are funded by the Skills Funding Agency (SFA) for all students aged 19 and over who do not have an EHC plan (including those who declare a learning difficulty or disability). Colleges are able to charge fees for these students. However, students who meet residency and eligibility criteria will have access to Government funding. Further information on funding eligibility is available on the SFA's website – see the References section under Chapter 7 for a link. Colleges also receive funding from HEFCE for their higher education (HE) students, but this Code does not apply to HE students.
- 7.35 Further information on funding places for 19-25 year olds is given in Chapter 8, Preparing for adulthood from the earliest years.

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Introduction

- 7.37 Being supported towards greater independence and employability can be life-transforming for children and young people with SEN. This support needs to start early, and should centre around the child or young person's own aspirations, interests and needs. All professionals working with them should share high aspirations and have a good understanding of what support is effective in enabling children and young people to achieve their ambitions.
- 7.38 Preparing for adulthood means preparing for:
- higher education and/or employment – this includes exploring different employment options, such as support for becoming self-employed and help from supported employment agencies
 - independent living – this means young people having choice, control and freedom over their lives and the support they have, 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

Strategic planning for the best outcomes in adult life

- 8.1 Local authorities **must** place children, young people and families at the centre of their planning, and work with them to develop co-ordinated approaches to securing better outcomes, as should clinical commissioning groups (CCGs)er

8.2 This planning and support will bring enormous benefits to individuals. The National Audit Office report ' , published in November 2011, estimates that supporting one person with a learning disability into employment could, in addition to improving their independence and self-esteem, increase that person's income by between 55 and 95 per cent. The National Audit Office also estimates that equipping a young person with the skills to live in semi-independent rather than fully supported housing could, in addition to quality of life improvements, reduce lifetime support costs to the public purse by around £1 million.

Duties on local authorities

8.3 Local authorities have a range of duties which are particularly relevant to this chapter. They are:

- when carrying out their functions, to support and involve the child and his or her parent, or the young person, and to have regard to their views, wishes and feelings (see Chapter 1, Principles). This includes their aspirations for adult life
- to offer advice and information directly to children and young people (see Chapter 2, Impartial information, advice and support). This includes information and advice which supports children and young people to prepare for adult life
- together with health services, to make joint commissioning arrangements about the education, health and care provision of children and young people to secure positive adult outcomes for young people with SEN (see

- to consider the need for EHC needs assessments, prepare EHC plans where needed, and maintain and review them, including the duty to ensure that all reviews of EHC plans from Year 9 (age 13-14) onwards include a focus on preparing for adulthood and, for 19-25 year olds, to have regard to whether educational or training outcomes specified in the EHC plan have been achieved
- to make young people aware through their Local Offer of the kind of support available to them in higher education and, where a higher education place has been confirmed for a young person with an EHC plan, to pass a copy of the EHC plan to the relevant institution and to the assessor for Disabled Students Allowance with the young person's permission

8.4 This is not a comprehensive list of local authority duties under the Children and Families Act 2014 or of regulations made under it. It is included to provide an overview, not detailed guidance on local authority duties. [de a ocal O](#)

or who have made a significant contribution to their community. For children with EHC plans, Personal Budgets can be used to help children and young people with SEN to access activities that promote greater independence and learn important life skills. Local authorities **must** ensure that the relevant services they provide co-operate in helping children and young people to prepare for adulthood. This may include, for example, housing services, adult social care and economic regeneration.

- 8.8 For teenagers, preparation for adult life needs to be a more explicit element of their planning and support. Discussions about their future should focus on what they want to achieve and the best way to support them to achieve. Considering the right post-16 option is part of this planning. Chapter 9 includes more detail about the process of developing an EHC plan.

they want to live with and what support they will need. Local housing options, support in finding accommodation, housing benefits and social care support should be explained

- support in maintaining good health in adult life, including effective planning with health services of the transition from specialist paediatric services to adult health care. Helping children and young people understand which health professionals will work with them as adults, ensuring those professionals understand the young person's learning difficulties or disabilities and planning well-supported transitions is vital to ensure young people are as healthy as possible in adult life
- support in participating in society, including understanding mobility and transport support, and how to find out about social and community activities, and opportunities for engagement in local decision-making. This also includes support in developing and maintaining friendships and relationships

8.11 The review should identify the support the child or young person needs to achieve these aspirations and should also identify the components that should be included in their study programme to best prepare them for adult life. It should identify how the child or young person wants that support to be available and what action should be taken by whom to provide it. It should also identify the support a child or young person may need as they prepare to make more decisions for themselves.

8.12 Further guidance on preparing for the transition to post-16 education is given in paragraphs 8.22 to 8.28. Further guidance on transition to higher education is provided in paragraphs 8.45 to 8.50, and on leaving education and training in paragraphs 8.77 to 8.80.

Young people preparing to make their own decisions

8.13 As young people develop, and increasingly form their own views, they should be

Support for young people

- 8.18 Some young people will need support from an independent skilled supporter to ensure that their views are acknowledged and valued. They may need support in expressing views

8.22 It is important that information about previous SEN provision is shared with the further education or training provider. Schools should share information before the young person takes up their place, preferably in the spring term prior to the new course, so that the provider can develop a suitable study programme and prepare appropriate support. Where a change in education setting is planned, in the period leading up to that transition schools should work with children and young people and their families, and the new college or school, to ensure that their new setting has a good understanding of what the young person's aspirations are and how they would like to be supported. This will enable the new setting to plan support around the individual. Some children and young people will want a fresh start when leaving school to attend college and any sharing of information about their SEN should be sensitive to their concerns and done with their agreement.

8.23 Schools and colleges should work in partnership to provide opportunities such as taster courses, link programmes and mentoring which enable young people with SEN to familiarise themselves with the college environment[pr]-3(e par)-3(e)J0[8.)-3(23d6)-5(i)1(c

interests and areas they want to develop should inform honest conversations with potential employers. This is more likely to result in a positive experience for the student and the employer.

- 8.34 Schools and colleges should consider funding from Access to Work, available from the Department for Work and Pensions

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8.40 Five-day packages of provision and support do not have to be at one provider and could involve amounts of time at different providers and in different settings. It may include periods outside education institutions with appropriate support, including time and support for independent study. A package of provision can include non-educational activities such as:

- volunteering or community participation
- work experience
-

learning difficulty such as dyslexia. Students need to make an application to Student Finance England (for students domiciled in England), providing accompanying medical evidence. A link to further information on DSAs is given in the Reference section under Chapter 7.

- 8.45 Applications for DSA can be made as soon as the student finance application service opens. This varies from year to year, but is generally at least six months before the start of the academic year in which a young person is expecting to take up a place in higher education. Local authorities should encourage young people to make an early claim for DSA so that support is in place when their course begins. Where a young person with an EHC plan makes a claim for DSA, the local authority **must** pass a copy of their plan to the relevant DSA assessor, to support and inform the application as soon as possible, where they are asked to do so by the young person. This should include relevant supporting diagnostic and medical information and assessments where the young person agrees.
- 8.46 Local authorities should plan a smooth transition to the higher education (and, where applicable, to the new local authority area) before ceasing to maintain a young person's EHC plan. Once the young person's place has been confirmed at a higher education institution, the local authority **must** pass a copy of their EHC plan to the relevant person in that institution at the earliest opportunity, where they are asked to do so by the young person.
- 8.47 The local authority should also plan how social care support will be maintained, where the young person continues to require it, and whether this will continue to be provided by the home local authority or by the authority in the area they are moving to. This should include consideration of how the student will be supported if they have a dual location, for example, if they live close to the higher education institution during term time and at home during vacations.

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Young people aged 19 to 25

- 8.49 Local authorities should be ambitious for children and young people with SEN, raising their aspirations and promoting high expectations about what they can achieve in school, college and beyond. Local authorities should ensure children and young people have access to the right support and opportunities that will prepare them successfully for adulthood by helping them achieve the agreed outcomes in their EHC plan. This will enable many more young people with SEN to complete their formal education.
- 8.50 Local authorities **must** set out in their Local Offer the support and provision that 19- to 25-year-olds with SEN can access regardless of whether they have an EHC plan (see Chapter 4, The Local Offer). Further education colleges **must** continue to use their best endeavours to secure the special educational provision needed by all young people aged 19 to 25 with SEN attending their institution. For guidance on EHC plans for young people aged 19 to 25, see Chapter 9.

Funding places for 19- to 25-year-olds

- 8.51 19- to 25-year-olds with EHC plans should have free access to further education in the same way as 16- to 18-year-olds. Colleges or training providers **must not** charge young people tuition fees for such places as the funding will be provided by the local authority and the Education Funding Agency (EFA). Further information on funding is available from the EFA pages on GOV.UK – a link is provided in the References section under Chapter 7.
- 8.52 Apprentices aged 19 to 25 with EHC plans are fully funded on the same terms and funding rates as 16- to 18-year-old apprentices. The Local Offer should include apprenticeships for this age group and full details of apprenticeship funding are available from the Skills Funding Agency (SFA) website – a link is given in the References section under Chapter 7.
- 8.53 19- to 25-year-olds with SEN but without EHC plans can choose to remain in further education. Colleges are funded by the SFA for all students aged 19 and over who do not have an EHC plan (including those who declare a learning difficulty or disability). Colleges are able to charge fees for these students, but **must** use their best endeavours to secure the necessary special educational provision that they need. However, students who meet residency and eligibility criteria will have access to Government funding. Information on funding eligibility is available on the SFA's website – see the References section under Chapter 7 for a link. Local authorities are not responsible for securing or funding education and training opportunities for young people aged 19 to 25 who do not have EHC plans.

Transition to adult health services

- 8.54 Support to prepare young people for good health in adulthood should include supporting them to make the transition to adult health services. A child with significant health needs is usually under the care of a paediatrician. As an adult, they might be under the care of different consultants and teams. Health service and other professionals should work with the young person and, where appropriate, their family. They should gain a good understanding of the young person's individual needs, including their learning difficulties or disabilities, to co-ordinate health care around those needs and to ensure continuity and the best outcomes for the young person. This means working with the young person to develop a transition plan, which identifies who will take the lead in co-ordinating care and referrals to other services. The young person should know who is taking the lead and how to contact them.
- 8.55 For young people with EHC plans, the plan should be the basis for co-ordinating the integration of health with other services. Where young people are moving to adult health services, the local authority and health services should

individual. There is no set age when young people reach this point and as such transition assessments should take place when it is of 'significant benefit' to them.

- 8.58 The statutory guidance 'Transition Guidance for the Care Act 2014' explains 'likely need' and 'significant benefit' in more detail (see References section under Chapter 8 for a link). It also provides further information on local authorities' roles and responsibilities for carrying out transition assessments for those turning 18 and, where relevant, carers who may be eligible for adult assessments.

Transition assessments for young people with EHC plans

- 8.59 For a young person with an EHC plan, the local authority should ensure that the transition to adult care and support is well planned, is integrated with the annual reviews of the EHC plans and reflects existing special educational and health provision that is in place to help the young person prepare for adulthood.
- 8.60 As with EHC plan development in general, transition assessments for adult care and support **must** involve the young person and anyone else they want to involve in the assessment. They **must** also include the outcomes, views and wishes that matter to the young person – much of which will already be set out in their EHC plan.
- 8.61 Assessments for adult care or support **must** consider:
- current needs for care and support
 - whether the young person is likely to have needs for care and support after they turn 18, and
 - if so, what those needs are likely to be and which are likely to be eligible needs
- 8.62 Local authorities can meet their statutory duties around transition assessment through an annual review of a young person's EHC plan that includes the above elements. Indeed, EHC plans **must** include provision to assist in preparing for adulthood from Year 9 (age 13 to 14).
- 8.63 Having carried out a transition assessment, the local authority **must** give an indication of which needs are likely to be regarded as eligible needs so the young person understands the care and support they are likely to receive once children's services cease. Where a young person's needs are not eligible for adult services, local authorities **must** provide information and advice about how those needs may be met and the provision and support that young people can access in their local area. Local authorities should ensure this information is incorporated into their Local Offer.

8.64 Statutory guidance accompanying the Autism Strategy places a duty on SENCOs in schools and a named person within a college with SEN oversight to inform young people with autism of their right to a community care assessment and their parents of a right to a carer's assessment. Where a young person has an EHC plan, this should be built into their preparing for adulthood reviews.

Continuity of provision

be the overarching plan that is used with these young people to ensure they receive the support they need to enable them to achieve agreed outcomes.

8.70 Local authorities **must** set out in section H2 of the EHC plan any adult care and support that is reasonably required by the young person's learning difficulties or disabilities. For those over 18, this will be those elements of their statutory care and support plan that are directly related to their learning difficulties or disabilities. EHC plans may also specify other adult care and support in the young person's care and support plan where appropriate, but the elements directly related to learning difficulties and disabilities should always be included as they will be of particular relevance to the rest of the EHC plan.

8.71 Local authorities should ensure that local systems and processes for assessment and review of EHC plans and care and support plans are fully joined up for young people who will have both. Every effort should be made to ensure that young people with both EHC plans and care and support plans do not have to attend multiple reviews held by different services, provide duplicate information, or receive support that is not joined up and co-ordinated.

8.72 When a young person's EHC plan is due to come to an end, local authorities should put in place effective plans for the support the young person will be receiving across adult services. Where a care and support plan is in place, this will remain as the young person's statutory plan for care and support. Local authorities should review the provision of adult care and support at this point as the young person's circumstances will be changing significantly as they leave the formal education and training system.

8.73 Where a safeguarding issue arises for someone aged 16 or over, the local authority must ensure that the young person's care and support plan is reviewed and updated to reflect the changes in their needs and circumstances.

8.73 Where a safeguarding issue arises for someone aged 16 or over, the local authority must ensure that the young person's care and support plan is reviewed and updated to reflect the changes in their needs and circumstances.

Special Educational Needs (Miscellaneous Amendments) Regulations 2014

The Community Care Services for Carers and Children's Services (Direct Payments) Regulations 2009

The National Health Service (Direct Payments) Regulations 2013

The Special Educational Needs and Disability (Detained Persons) Regulations 2015

Introduction

- 9.1 The majority of children and young people with SEN or disabilities will have their needs met within local mainstream early years settings, schools or colleges (as set out in the information on identification and support in Chapters 5, 6 and 7). Some children and young people may require an EHC needs assessment in order for the local authority to decide whether it is necessary for it to make provision in accordance with an EHC plan.
- 9.2 The purpose of an EHC plan is to make special educational provision to meet the special educational needs of the child or young person, to secure the best possible outcomes for them across education, health and social care and, as they get older, prepare them for adulthood. To achieve this, local authorities use the information from the assessment to:
- establish and record the views, interests and aspirations of the parents and child or young person
 - provide a full description of the child or young person's special educational needs and any health and social care needs
 - establish outcomes across education, health and social care based on the child or young person's needs and aspirations
 - specify the provision required and how education, health and care services will work together to meet the child or young person's needs and support the achievement of the agreed outcomes
- 9.3 A local authority **must** conduct an assessment of education, health and care needs when it considers that it may be necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. The factors a local authority should take into account in deciding whether it needs to undertake an EHC needs assessment are set out in paragraphs 9.14 to 9.15, and the factors a local authority should take into account in deciding whether an EHC plan is necessary are set out in paragraphs 9.53 to 9.56. The EHC needs assessment should not normally be the first step in the process, rather it should follow on from

- the child's parent
- a young person over the age of 16 but under the age of 25, and
- a person acting on behalf of a school or post-16 institution (this should ideally

parent or the young person as soon as practicable following a request for an EHC needs assessment (or having otherwise become responsible). This is particularly important where the request was not made by the child's parent or the young person, so they have sufficient time to provide their views. In considering whether an EHC needs assessment is necessary, local authorities **must** have regard to the views, wishes and feelings of the child and his or her parent, or the young person. At an early stage, the local authority should establish how the child and his or her parent or the young person can best be kept informed and supported to participate as fully as possible in decision-making. The local authority **must** arrange for the child and his or her parent or the young person to be provided with advice and information relevant to the child or young person's SEN, (for more information, see paragraph 9.21 and Chapter 2).

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assessment (or having otherwise become responsible). The local authority **must** give its reasons for this decision where it decides not to proceed. The local authority **must** also notify the other parties listed in section 9.13 above of its decision.

9.18 If the local authority intends to conduct an EHC needs assessment, it **must** ensure the child's parent or the young person is fully included from the start and made aware of opportunities to offer views and information.

9.19 If the local authority decides not to conduct an EHC needs assessment it **must** inform the child's parents or the young person of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services. The local authority should also provide feedback collected during the process of considering whether an EHC needs assessment is necessary, including evidence from professionals, which the parent, young person, early years provider, school or post-16 institution may find useful.

Principles underpinning co-ordinated assessment and planning

9.20 Children, young people and families should experience well co-ordinated assessment and planning leading to timely, well informed decisions. The following general principles underpin effective assessment and planning processes:

Involving children, young people and parents in decision-making

9.21 Local authorities **must** consult the child and the child's parent or the young person throughout the process of assessment and production of an EHC plan. They should also involve the child as far as possible in this process. The needs of the individual child and young person should sit at the heart of the assessment and planning process. Planning should start with the individual and local authorities **must** have regard to the views, wishes and feelings of the child, child's parent or young person, their aspirations, the outcomes they wish to seek and the support they need to achieve them. It should enable children, young people and parents to have more control over decisions about their support including the use of a Personal Budget for those with an EHC plan.

9.22 The assessment and planning process should:

- focus on the child or young person as an individual

participate in the community and how they will achieve greater autonomy and independence. Local authorities should ensure that children and young people who need it have access to this support.

- 9.26 Practitioners in all services involved in the assessment and planning process need to be skilled in working with children, parents and young people to help them make informed decisions. All practitioners should have access to training so they can do this effectively.

Support for children, young people and parents

- 9.27 Local authorities should have early discussions with parents or the young person about what the EHC needs assessment process and development of an EHC plan will involve, and the range of options that will be available, such as different types of educational institution and options for Personal Budgets and how these may differ depending on the type of educational institution for which the parents or young person express a preference.

- 9.28 Local authorities **must** work with parents and children and young people to understand how best to minimise disruption for them and their family life. For example, multiple appointments should be co-ordinated or combined where possible and appropriate.

- 9.29 Local authorities **must** provide all parents, children and young people with impartial information, advice and support.

- ensuring relevant professionals have sufficient notice to be able to contribute to the process

9.31 The EHC needs assessment and plan development process should be supported by senior leadership teams monitoring the quality and sufficiency of EHC needs assessments through robust quality assurance systems. Families should have confidence that those overseeing the assessment process will be impartial and act in their best interests.

Sharing information

9.32 Information sharing is vital to support an effective assessment and planning process which fully identifies needs and outcomes and the education, health and care provision needed by the child or young person. Local authorities with their partners should establish local protocols for the effective sharing of information which addresses confidentiality, consent and security of information (see the References section under Chapter 9 for a link to the DfE advice ‘

’). Agencies should work together to agree local protocols for information collection and management so as to inform planning of provision for children and young people with SEN or disabilities at both individual and strategic levels.

9.33 As far as possible, there should be a ‘tell us once’ approach to sharing information during the assessment and planning process so that families and young people do not have to repeat the same information to different agencies, or different practitioners and services within each agency.

9.34 Local authorities **must** discuss with the child and young person and their parents what information they are happy for the local authority to share with other agencies. A record should be made of what information can be shared and with whom. (See paragraphs 9.211 to 9.213 for further information on confidentiality and disclosing EHC plans.)

Timely provision of services

9.35 Where particular services are assessed as being needed, such as those resulting

9.40 The whole process of EHC needs assessment and EHC plan development, from the point when an assessment is requested (or a child or young person is brought to the local authority's attention) until the final EHC plan is issued, **must** take no more than 20 weeks (subject to exemptions set out below).

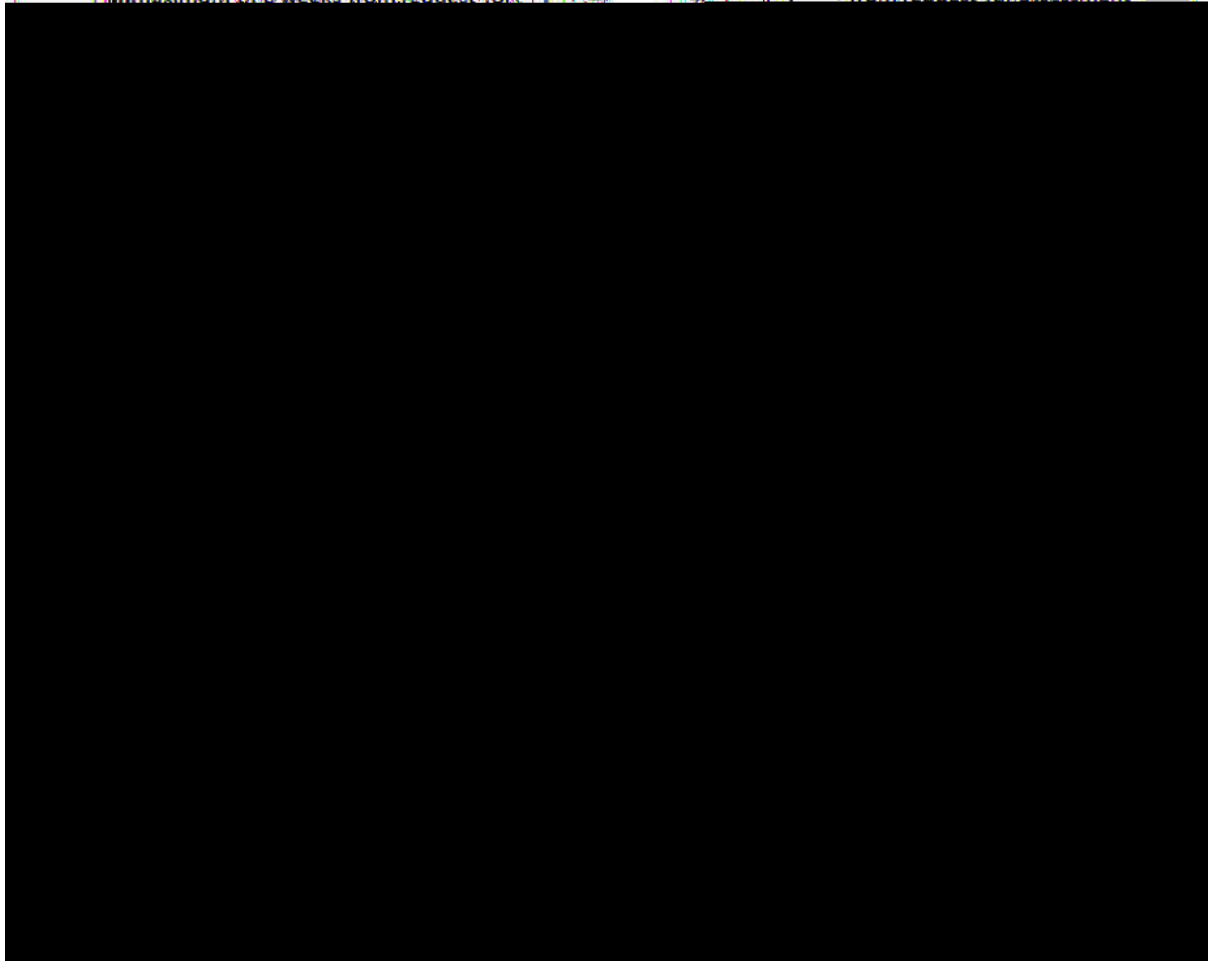
9.41 The following specific requirements apply:

- Local authorities **must** give their decision in response to any request for an EHC needs assessment within a maximum of 6 weeks from when the request was received or the point at which a child or young person was brought to the local authority's attention
- When local authorities request information as part of the EHC needs assessment process, those supplying the information **must** respond in a timely manner and within a maximum of 6 weeks from the date of the request
- If a local authority decides, following an EHC needs assessment, not to issue an EHC plan, it **must** inform the child's parent or the young person within a maximum of 16 weeks from the request for a EHC needs assessment, and
- The child's parent or the young person **must** be given 15 calendar days to consider and provide views on a draft EHC plan and ask for a particular school or other institution to be named in it

9.42 Where there are exceptional circumstances, it may not be reasonable to expect local authorities and other partners to comply with the time limits above. The Special Educational Needs and Disability Regulations 2014 set out specific exemptions. These include where:

- appointments with people from whom the local authority has requested information are missed by the child or young person (this only applies to the duty on partners to comply with a request under the EHC needs assessment process within six weeks)
- the child or young person is absent from the area for a period of at least 4 weeks
- exceptional personal circumstances affect the child or his/her parent, or the young person, and
- the educational institution is closed for at least 4 weeks, which may delay the submission of information from the school or other institution (this does

Statutory timescales for EHC needs assessment and EHC plan development



Advice and information for EHC needs assessments

- Educational advice and information from the manager, headteacher or principal of the early years setting, school or post-16 or other institution attended by the child or young person. Where this is not available the authority **must** seek advice from a person with experience of teaching children or young people with SEN, or knowledge of the provision which may meet the child's or young person's needs. Where advice from a person with relevant teaching experience or knowledge is not available and the child or young person does not attend an educational institution, the local authority **must** seek educational advice and information from a person responsible for educational provision for the child or young person
- If the child or young person is either vision or hearing impaired, or both, the educational advice and information **must** be given after consultation with a person who is qualified to teach pupils or students with these impairments
- Medical advice and information from health care professionals with a role in relation to the child's or young person's health (see the section later in this chapter on agreeing the health provision in EHC plans)
- Psychological advice and information from an educational psychologist who should normally be employed or commissioned by the local authority. The educational psychologist should consult any other psychologists known to be involved with the child or young person
- Social care advice and information from or on behalf of the local authority, including, if appropriate, children in need or child protection assessments, information from a looked after child's care plan, or adult social care assessments for young people over 18. In some cases, a child or young person may already have a statutory child in need or child protection plan, or an adult social care plan, from which information should be drawn for the EHC needs assessment
- From Year 9 onwards, advice and information related to provision to assist the child or young person in preparation for adulthood and independent living
- Advice and information from any person requested by the child's parent or young person, where the local authority considers it reasonable to do so. For example, they may suggest consulting a GP or other health professional
- Advice from a youth offending team, where the child or young person is detained in a Young Offender Institution. Where the young person is

9.54 In deciding whether to make special educational provision in accordance with an EHC plan, the local authority should consider all the information gathered during the EHC needs assessment and set it alongside that available to the local authority prior to the assessment. Local authorities should consider both the child or young person's SEN and the special educational provision made for the child or young person and whether:

- the information from the EHC needs assessment confirms the information available on the nature and extent of the child or young person's SEN prior to the EHC needs assessment, and whether
- the special educational provision made prior to the EHC needs assessment was well matched to the SEN of the child or young person

9.55 Where, despite appropriate assessment and provision, the child or young person is not progressing, or not progressing sufficiently well, the local authority should

consider what the local authority should do to meet the child's or young person's needs. Local authority should

Decision not to issue an EHC plan

- 9.57 Following the completion of an EHC needs assessment, if the local authority decides that an EHC plan is not necessary, it **must** notify the child's parent or the young person, the early years provider, school or post-16 institution currently attended, and the health service and give the reasons for its decision. This notification **must** take place as soon as practicable and at the latest within 16 weeks of the initial request or of the child or young person having otherwise been brought to the local authority's attention. The local authority **must** also inform the child's parent or the young person of their right to appeal that decision and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services.
- 9.58 The local authority should ensure that the child's parent or the young person are aware of the resources available to meet SEN within mainstream provision and other support set out in the Local Offer.
- 9.59 The local authority should provide written feedback collected during the EHC needs assessment process, which the child's parent, the young person, early years provider, school or post-16 institution can understand and may find useful, including evidence and reports from professionals. This information can then inform how the outcomes sought for the child or young person can be achieved through special educational provision made by the early years provider, school or post-16 institution and co-ordinated support from other agencies.

Transparent and consistent decision-making

- 9.60 It is helpful for local authorities to set up moderating groups to support transparency in decision-making. Such groups can improve the consistency of decision-making about whether to carry out an EHC needs assessment and whether to issue an EHC plan. Through sampling and retrospective comparison, moderating groups can also help local authority practice to become more robust and clearly unders

- EHC plans should describe how informal (family and community) support as well as formal support from statutory agencies can help in achieving agreed outcomes
- EHC plans should have a review date (which should link to other regular reviews, including

living and community participation. (See Chapter 8 for more details on preparing for adulthood.)

9.65 Long-term aspirations are not outcomes in themselves – aspirations **must** be specified in Section A of the EHC plan. A local authority cannot be held accountable for the aspirations of a child or young person. For example, a local authority cannot be required to continue to maintain an EHC plan until a young person secures employment. However, the EHC plan should continue to be maintained where the young person wants to remain in education and clear evidence shows that special educational provision is needed to enable them to achieve the education and training outcomes required for a course or programme that moves them closer to employment. For example, by accessing a supported internship or apprenticeship.

9.66 An outcome can be defined as the benefit or difference made to an individual as a result of an intervention. It should be personal and not expressed from a service perspective; it should be something that those involved have control and influence over, and while it does not always have to be formal or accredited, it should be specific, measurable, achievable, realistic and time bound (SMART). When an outcome is focused on education or training, it will describe what the expected benefit will be to the individual as a result of the educational or training intervention provided. Outcomes are not a description of the service being provided – for example, the provision of a course or programme that moves them closer to employment.

Section	Information to include
	<p>targets by the early years provider, school, college or other education or training provider</p> <ul style="list-style-type: none"><li data-bbox="528 365 1385 468">• Forward plans for key changes in a child or young person's life, such as changing schools, moving from children's to adult care and/or from paediatric services to

Section	Information to include
	<p>that fact</p> <ul style="list-style-type: none"> ○ where there is a Personal Budget, the outcomes to which it is intended to contribute (detail of the arrangements for a Personal Budget, including any direct payment, must be included in the plan and these should be set out in section J) ● See paragraph 9.131 onwards for details of duties on the local authority to maintain the special educational provision in the EHC plan
<p>(G) Any health provision reasonably required by the learning difficulties or disabilities which result in the child or young person having SEN</p>	<ul style="list-style-type: none"> ● Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it ● It should be clear how the provision will support achievement of the outcomes, including the health needs to be met and the outcomes to be achieved through provision secured through a personal (health) budget ● Clarity as to how advice and information gathered has informed the provision specified ● Health care provision reasonably required may include specialist support and therapies, such as medical treatments and delivery of medications, occupational therapy and physiotherapy, a range of nursing support, specialist equipment, wheelchairs and continence supplies. It could include highly specialist services needed by only a small number of children which are commissioned centrally by NHS England (for example therapeutic provision for young offenders in the secure estate) ● The local authority and CCG may also choose to specify other health care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities, but which should sensibly be co-ordinated with other services in the plan ● See paragraph 9.141 for details of duties on the health service to maintain the health care provision in the EHC plan
<p>(H1) Any social care provision which must be made for a child or young person under 18 resulting from</p>	<ul style="list-style-type: none"> ● Provision should be detailed and specific and should normally be quantified, for example, in terms of the type of support and who will provide it (including where this is to be secured through a social care direct payment) ● It should be clear how the provision will support achievement of the outcomes, including any provision

Section	Information to include
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section 2 of the Chronically Sick and Disabled Persons Act 1970 (CSDPA)

secured through a Personal Budget. There should be clarity as to how advice and information gathered has informed the provision specified

- Section H1 of the EHC plan **must** specify all services assessed as being needed for a disabled child or young person under 18, under section 2 of the CSDPA. These services include:

- practical assistance in the home
- provision or assistance in obtaining recreational and educational facilities at home and outside the home
- assistance in travelling to facilities
- adaptations to the home
- ~~provision of services~~

Section	Information to include
	<p>young people over 18 (set out in an adult care and support plan) under the Care Act 2014. See Chapter 8 for further detail on adult care and EHC plans</p> <ul style="list-style-type: none"> • The local authority may also choose to specify in section H2 other social care provision reasonably required by the child or young person, which is not linked to their learning difficulties or disabilities. This will enable the local authority to include in the EHC plan social care provision such as child in need or child protection plans, or provision meeting eligible needs set out in an adult care plan where it is unrelated to the SEN but appropriate to include in the EHC plan • See paragraph 9.137 onwards for details of duties on local authorities to maintain the social care provision in the EHC plan
(I) Placement	<ul style="list-style-type: none"> • The name type of the school, maintained nursery school, post-16 institution or other institution to be attended by the child or young person and the type of that institution (or, where the name of a school or other institution is not specified in the EHC plan, the type of school or other institution to be attended by the child or young person) • These details must be included only in the final EHC plan, the draft EHC plan sent to the child's parent or to the young person • See paragraph 9.78 onwards for more details
(J) Personal Budget (including arrangements for direct payments)	<ul style="list-style-type: none"> • This section should provide detailed information on any Personal Budget that will be used to secure provision in the EHC plan • It should set out the arrangements in relation to direct payments as required by education, health and social care regulations • The special educational needs and outcomes that are to be met by any direct payment must be specified
(K) Advice and information	<ul style="list-style-type: none"> • The advice and information gathered during the EHC needs assessment must be set out in appendices to the EHC plan. There should be a list of this advice and information

Requests for a particular school, college or other institution

9.78 The child's parent or the young person has the right to request a particular school, college or other institution of the following type to be named in their EHC plan:

- maintained nursery school
- maintained school and any form of academy or free school

- 9.85 Children with EHC plans can attend more than one school under a dual placement. Dual placements enable children to have support from a mainstream and a special school. This can help to prepare children for mainstream education and enable mainstream and special schools to share and develop their expertise in supporting children with different types of SEN. In order for a child with SEN who is being supported by a dual placement to be deemed as being educated at a mainstream school they should spend the majority of their time there.
- 9.86 Where appropriate, a young person with an EHC plan can attend a dual placement at an institution within the further education sector and a special post-16 institution. The local authority should work with the young person, post-16 provider and independent specialist college to commission such a placement where that will achieve the best possible outcome for the young person. To be deemed as being educated in a mainstream further education institution, young people should spend the majority of their time there.
- 9.87 The local authority should consider very carefully a request from a parent for a denominational school, but denominational considerations cannot override the requirements of the Children and Families Act 2014.

Where no request is made for a particular school or college or a request for a particular school or college has not been met

- 9.88 Where a parent or young person does not make a request for a particular nursery, -4(es)-e Chi8c-

9.90 Where the local authority considers a particular mainstream place to be incompatible with the efficient education of others it **must** demonstrate, in relation to maintained nursery schools, mainstream schools or mainstream post-16 institutions in its area taken as a whole, that there are no reasonable steps that it, or the school or college, could take to prevent that incompatibility. Efficient education means

- providing the child with a channel of communication, for example use of peer support
- using a carefully designed system of behaviour targets drawn up with

- ensuring that all staff are briefed on the warning signs which may indicate potential behaviour challenge and on a range of activities which provide effective distraction if used sufficiently early
- Reasonable steps taken to ensure that the inclusion of a young person with a learning disability who does not use verbal communication in a mainstream course at a further education college is not incompatible with the efficient education of others may include:
 - the involvement of staff from the college's learning support team in the school-based transition reviews
 - an orientation period during the summer holidays, to enable the student to find his or her way around the college campus and meet the learning support staff
 -

important that all decisions are taken on the basis of the circumstances of each case and in consultation with the parents or young person, taking account of the child or young person's views. Local authorities should consider reasonable steps that can be taken for mainstream schools and mainstream post-16 institutions generally to provide for children and young people with SEN and disabled children and young people.

Requesting a Personal Budget

- 9.95 A Personal Budget is an amount of money identified by the local authority to deliver provision set out in an EHC plan where the parent or young person is involved in securing that provision (see 'Mechanisms for delivery of a Personal Budget' below).
- 9.96 Local authorities **must** provide information on Personal Budgets as part of the Local Offer. This should include a policy on Personal Budgets that sets out a description of the services across education, health and social care that currently lend themselves to the use of Personal Budgets, how that funding will be made available, and clear and simple statements of eligibility criteria and the decision-making processes.
- 9.97 Personal Budgets are optional for the child's parent or the young person but local authorities are under a duty to prepare a budget when requested. Local authorities **must** provide information about organisations that may be able to provide advice and assistance to help parents and young people to make informed decisions about Personal Budgets. Local authorities should use the information on Personal Budgets set out in the Local Offer to introduce the idea of Personal Budgets to parents and young people within the person-centred approach described in paragraphs 9.21 to 9.26.
- 9.98 The child's parent or the young person has a right to request a Personal Budget, when the local authority has completed an EHC needs assessment and confirmed that it will prepare an EHC plan. They may also request a Personal Budget during a statutory review of an existing EHC plan.
- 9.99 Personal Budgets should reflect the holistic nature of an EHC plan and can include funding for special educational, health and social care provision. They should be focused to secure the provision agreed in the EHC plan and should be designed to secure the outcomes specified in the EHC plan.

- 9.107 If the local authority refuses a request for a direct payment for special educational provision on the grounds set out in regulations (see paragraphs 9.119 to 9.124 below) the local authority **must** set out their reasons in writing and inform the child's parent or the young person of their right to request a formal review of the decision. The local authority **must** consider any subsequent representation made by the child's parent or the young person and notify them of the outcome, in writing, setting out the reasons for their decision.
- 9.108 Where the disagreement relates to the special educational provision to be secured through a Personal Budget the child's parent or the young person can appeal to the First-tier Tribunal (SEN and Disability), as with any other disagreement about provision to be specified in an EHC plan.
- 9.109 Decisions in relation to the health element (Personal Health Budget) remain the responsibility of the CCG or other health commissioning bodies and where they decline a request for a direct payment, they **must** set out the reasons in writing and provide the opportunity for a formal review. Where more than one body is unable to meet a request for a direct payment, the local authority and partners should consider sending a single letter setting out the reasons for the decisions.

Scope of Personal Budgets

- 9.110 The Personal Budget can include funding from education, health and social care. However, the scope of that budget will vary depending on the needs of the individual, the eligibility criteria for the different components and the mechanism for delivery. It will reflect local circumstances, commissioning arrangements and school preference. The scope of Personal Budgets should increase over time as local joint commissioning arrangements provide greater opportunity for choice and control over local provision.
- 9.111 Local authority commissioners and their partners should seek to align funding streams for inclusion in Personal Budgets and are encouraged to establish arrangements that will allow the development of a single integrated fund from which a single Personal Budget, covering all three areas of additional and individual support, can be made available. EHC plans can then set out how this budget is to be used including the provision to be secured, the outcomes it will deliver and how health, education and social care needs will be met.

Education

- 9.112 The special educational provision specified in an EHC plan can include provision funded from the school's budget share (or in colleges from their formula funding) and more specialist provision funded wholly or partly from the local authority's high needs funding. It is this latter funding that is used for Personal Budgets, although schools

and colleges should be encouraged to personalise the support they provide and they can choose to contribute their own funding to a Personal Budget (this will usually be

Finalising and maintaining the EHC plan

9.125 When changes are suggested to the draft EHC plan by the child's parent or the young person and agreed by the local authority, the draft plan should be amended and issued as the final EHC plan as quickly as possible. The final EHC plan can differ from the draft EHC plan only as a result of any representations made by the child's parent or the young person (including a request for a Personal Budget) and decisions made about the school or other institution (or type of school or other institution) to be named in the EHC plan. The local authority **must not** make any other changes – if the local authority wishes to make other changes it **must** re-issue the draft EHC plan to the child's parent or the young person (see paragraph 9.77). The final EHC plan should be signed and dated by the local authority officer responsible for signing off the final plan.

9.126 Where changes suggested by the child's parent or the young person are not agreed, the local authority may still proceed to issue the final EHC plan. In either case the local authority **must** notify the child's parent or the young person of their right to appeal to the Tribunal and the time limit for doing so, of the requirement for them to consider mediation should they wish to appeal, and the availability of information, advice and support and disagreement resolution services. The local authority should also notify the child's parent or the young person how they can appeal the health and social care provision in the EHC plan.

9.127 The child's parent or the young person may appeal to the Tribunal against the description of SEN in the EHC plan, the special educational provision, and the school or other provider named, or the fact that no school or other provider is named.

9.128 Mediation and appeals for children and young people whose EHC plans are finalised while they remain in custody are covered in Chapter 10.

9.129 As well as the child's parent or the young person, the final EHC plan **must** also be issued to the governing body, proprietor or principal of any school, college or other institution named in the EHC plan, and to the relevant CCG (or where relevant, NHS England).

9.130

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they felt it appropriate, assist the child's parent or the young person in making their own arrangements suitable.

- 9.136 These arrangements ensure that local authorities meet their fundamental responsibility to ensure that children and young people with EHC plans get the support they need whilst enabling flexibility to accommodate alternative arrangements made by the child's parent or the young person.

Maintaining social care provision in EHC plans

- 9.137 For social care provision specified in the plan, existing duties on social care services to assess and provide for the needs of disabled children and young people under the Children Act 1989 continue to apply. Where the local authority decides it is necessary to make provision for a disabled child or young person under 18 pursuant to Section 2 of the Chronically Sick and Disabled Person Act (CSDPA) 1970, the local authority **must** identify which provision is made under section 2 of the CSDPA. The local authority **must** specify that provision in section H1 of the EHC plan. It **must** secure that provision because under Section 2 of the CSDPA there is a duty to provide the services assessed by the local authority as being needed.
- 9.138 Where the young person is over 18, the care element of the EHC plan will usually be provided by adult services. Under the Care Act 2014, local authorities **must** meet

Maintaining health provision in EHC plans

9.141 For health care provision specified in the EHC plan, the CCG (or where relevant

years of starting compulsory education who are likely to need an EHC plan in primary school, it will often be appropriate to prepare an EHC plan during this period so the EHC plan is in place to support the transition to primary school.

9.149 Parents of children under compulsory school age can ask for a particular maintained nursery school to be named in their child's plan. The local authority **must** name the school unless it would be unsuitable for the age, ability, aptitude or SEN of the child, or the attendance of the child there would be incompatible with the efficient education of others or the efficient use of resources. The child's parents may also

training outcomes specified in the plan have been achieved (see the section on Outcomes, paragraphs 9.64 to 9.69

Transfer of EHC plans

Reviewing an EHC plan

9.166 EHC plans should be used to actively monitor children and young people's progress towards their outcomes and longer term aspirations. They **must** be reviewed by the local authority as a minimum every 12 months. Reviews **must** focus on the child or young person's progress towards achieving the outcomes specified in the EHC plan. The review **must** also consider whether these outcomes and supporting targets remain appropriate.

9.167 Reviews should also:

- gather and assess information so that it can be used by early years settings, schools or colleges to support the child or young person's progress and their access to teaching and learning
- review the special educational provision made for the child or young person to ensure it is being effective in ensuring access to teaching and learning and good progress
- review the health and social care provision made for the child or young person and its effectiveness in ensuring good progress towards outcomes
- consider the continuing appropriateness of the EHC plan in the light of the child or young person's progress during the previous year or changed circumstances and whether changes are required including any changes to outcomes, enhanced provision, change of educational establishment or whether the EHC plan should be discontinued
- set new interim targets for the coming year and where appropriate, agree new outcomes
- review any interim targets set by the early years provider, school or college or other education provider

9.168 Reviews **must** be undertaken in partnership with the child and their parent or the young person, and **must** take account of their views, wishes and feelings, including their right to request a Personal Budget.

9.169 The first review **must** be held within 12 months of the date when the EHC plan was issued, and then within 12 months of any previous review, and the local authority's decision following the review meeting **must** be notified to the child's parent or the young person within four weeks of the review meeting (and within 12 months of the

date of issue of the EHC plan or previous review). Professionals across education, health and care **must** co-operate with local authorities during reviews. The review of the EHC plan should include the review of any existing Personal Budget arrangements including the statutory requirement to review any arrangements for direct payments. For looked after children the annual review should, if possible and appropriate, coincide with one of the reviews in their Care Plan and in particular the personal education plan (PEP) element of the Care Plan.

- 9.170 Local authorities **must** also review and maintain an EHC plan when a child or young person has been released from custody. The responsible local authority **must** involve the child's parent or the young person in reviewing whether the EHC plan still reflects their needs accurately and should involve the youth offending team in agreeing appropriate support and opportunities.
- 9.171 When reviewing an EHC plan for a young person aged over 18, the local authority **must** have regard to whether the educational or training outcomes specified in the EHC plan have been achieved.
- 9.172 The local authority should provide a list of children and young people who will require a review of their EHC plan that term to all headteachers and principals of schools, colleges and other institutions attended by children or young people with EHC plans, at least two weeks before the start of each term. The local authority should also provide a list of all children and young people with EHC plan reviews in the forthcoming term to the CCG (or, where relevant, NHS England) and local authority officers responsible for social care for children and young people with SEN or disabilities. This will enable professionals to plan attendance at review meetings and/or provide advice or information about the child or young person where necessary. These lists should also indicate which reviews **must** be focused on transition and preparation for adulthood.

Reviews where a child or young person attends a school or other institution

- 9.173 As part of the review, the local authority and the school, further education college or section 41 approved institution attended by the child or young person **must** co-operate to ensure a review meeting takes place. This includes attending the review when requested to do so. The local authority can require the following types of school to convene and hold the meeting on the local authority's behalf:
- maintained schools
 - maintained nursery schools
 - academy schools

- The meeting **must** focus on the child or young person's progress towards achieving the outcomes specified in the EHC plan, and on what changes might need to be made to the support provided to help them achieve those outcomes, or whether changes are needed to the outcomes themselves. Children, parents and young people should be supported to engage fully in the review meeting
- The local authority **must** prepare and send a report of the meeting to everyone invited within two weeks of the meeting. The report **must** set out recommendations on any amendments required to the EHC plan, and should refer to any difference between the local authority's recommendations, and those of others attending the meeting
- Within four weeks of the review meeting, the local authority **must** decide whether it proposes to keep the plan as it is, amend the plan, or cease to maintain the plan, and notify the child's parent or the young persons

- early years provider to school
- infant school to junior school
- primary school to middle school
- primary school to secondary school, and
- middle school to secondary school

9.180 For young people moving from secondary school to a post-16 institution or apprenticeship, the review and any amendments to the

is not necessary, for example because it considers the child or young person's needs have not changed significantly.

9.189 When deciding whether to re-assess an EHC plan for a young person aged 19 or over, the local authority **must** have regard to whether the educational or training outcomes specified in the EHC plan have been achieved.

- 9.194 Where the local authority proposes to amend an EHC plan, it **must** send the child's parent or the young person a copy of the existing (non-amended) plan and an accompanying notice providing details of the proposed amendments, including copies of any evidence to support the proposed changes. The child's parent or the young person should be informed that they may request a meeting with the local authority to discuss the proposed changes.
- 9.195 The parent or young person **must** be given at least 15 calendar days to comment and make representations on the proposed changes, including requesting a particular school or other institution be named in the EHC plan, in

statement can be ceased or not replaced with an EHC plan during the transition period are the same as that for ceasing an EHC plan.

- 9.200 The circumstances where a local authority may determine that it is no longer necessary for the EHC plan to be maintained include where the child or young person no longer requires the special educational provision specified in the EHC plan. When deciding whether a young person aged 19 or over no longer needs the special educational provision specified in the EHC plan, a local authority **must** take account of whether the education or training outcomes specified in the EHC plan have been achieved. Local authorities **must not** cease to maintain the EHC plan simply because the young person is aged 19 or over.
- 9.201 The circumstances where a local authority is no longer responsible for the child or young person include where any of the following conditions apply (subject to paragraphs 9.202 and 9.203 below:
- A young person aged 16 or over leaves education to take up paid employment (including employment with training but excluding apprenticeships)
 - The young person enters higher education
 - A young person aged 18 or over leaves education and no longer wishes to engage in further learning
 - The child or young person has moved to another local authority area
- 9.202 Where a young person of compulsory school or participation age – i.e. under the age of 18 – is excluded from their education or training setting or leaves voluntarily, the local authority **must not** cease their EHC plan, unless it decides that it is no longer necessary for special educational provision to be made for the child or young person in accordance with an EHC plan. The focus of support should be to re-engage the young person in education or training as soon as possible and the local authority **must** review the EHC plan and amend it as appropriate to ensure that the young person continues to receive education or training.
- 9.203 Where a young person aged 18 or over leaves education or training before the end of their course, the local authority **must not** cease to maintain the EHC plan unless it has reviewed the young person's EHC plan to determine whether the young person wishes to return to education or training, either at the educational institution specified in the EHC plan or somewhere else. If the young person does wish to return to education or training, and the local authority thinks it is appropriate, then the local authority **must** amend the EHC plan as necessary and it **must** maintain the plan.

The local authority should seek to re-engage the young person in education or

must continue to maintain the EHC plan until the time has passed for bringing an appeal or, when an appeal has been registered, until it has been concluded.

9.210 Where the care part of an EHC plan is provided by adult services under the Care Act 2014 because the person is 18 or over, the Care Plan will remain in place when the other elements of the EHC plan cease. There will be no requirement for the young person to be re-assessed at this point, unless there is reason to re-assess him or her for health and social care because their circumstances have changed.

Disclosure of an EHC plan

9.211 A child or young person's EHC plan **must** be kept securely so that unauthorised persons do not have access to it, so far as reasonably practicable (this includes any representations, evidence, advice or information related to the EHC plan). An EHC plan **must not** be disclosed without the consent of the child or the young person, except for specified purposes or in the interests of the child or young person. If a child does not have sufficient age or understanding to allow him or her to consent to such disclosure, the child's parent may give consent on the child's behalf. The specified purposes include:

- disclosure to the Tribunal when the child's parent or the young person appeals, and to the Secretary of State if a complaint is made to him or her under the 1996 Act
- disclosure on the order of any court or for the purpose of any criminal proceedings
- disclosure for the purposes of investigations of maladministration under the Local Government Act 1974
- disclosure to enable any authority to perform duties arising from the Disabled Persons (Services, Consultation and Representation) Act 1986, or from the Children Act 1989 relating to safeguarding and promoting the welfare of children
- disclosure to Ofsted inspection teams as part of their inspections of schools or other educational institutions and local authorities
- disclosure to any person in connection with the young person's application for a Disabled Students Allowance in advance of taking up a place in higher education, when requested to do so by the young person

10 Children and young people in specific circumstances

What this chapter covers

This chapter highlights particular groups of children and young people who are in specific circumstances

looked after by the authority as if they attended a single school. Special Educational Needs and Disabilities departments should work closely with the VSH as well as social workers to ensure that local authorities have effective and joined-up processes for meeting the SEN of looked after children.

10.5 Local authorities are required to act under care planning statutory guidance issued by the Secretary of State when exercising their social services functions with regard to the children they look after. This is set out in volume 2 of the Children Act 1989 guidance.

10.6 This means that a considerable amount of planning will be done around the care, health and education needs of looked after children. They will have a Care Plan, which sets out how the local authority will meet the care needs of the child, addressing all important dimensions of a child's developmental needs. These include health, education, emotional and behavioural development, identity, family and social relationships, social presentation and self-care skills. The Care Plan will specifically include a Personal Education Plan (PEP) and a Health Plan (both are a statutory requirement) which will particularly assess and set out the child's education and health needs. It may be through making these assessmentsopa2ta()1(a2ta()11(i)3)-1()Te-

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social workers, for example in support of parenting capacity. If a local authority determines that a disabled child needs support under Section 17, it **must** consider whether such support is of the type outlined in Section 2 of the Chronically Sick and Disabled Persons Act (CSDPA) 1970. Where it is, the local authority **must** provide that support. Where an EHC plan is being prepared for a disabled child or young person under the age of 18, any services to be provided under Section 2 of the CSDPA must be included in section H1 of the EHC plan. All other social care services, including services provided under Section 17 of the Children Act but not under Section 2 of the CSDPA must be included in Section H2 of the EHC plan (the **ITJ**

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- 10.18 Where there is an EHC needs assessment, it should be an holistic assessment of the child or young person's education, health and social care needs. EHC needs assessments should be combined with social care assessments under Section 17 of the Children Act 1989 where appropriate. This is explicit in [Section 17\(1\)\(b\)](#), which can be found on the GOV.UK website – a link is given in the References section under Introduction, and a webtext version is also available.
- 10.19 For all children who have social care plans the social worker should co-ordinate any outward facing plan with other professionals. Where there are specific child protection concerns resulting in action under Section 47 of the Children Act, careful consideration should be given to how closely the assessment processes across education, health and care can be integrated, in order to ensure that the needs of vulnerable children are put first.
- 10.20 EHC plan reviews should be synchronised with social care plan reviews, and **must** always meet the needs of the individual child.

Power to continue children's social care services to those aged 18 to 25

- 10.21 Where a local authority has been providing children's social care services to a young person under the age of 18, and they have an EHC plan in place, local authorities can continue to provide these services on the same basis after the age of 18.
- 10.22 The local authority retains discretion over how long it chooses to provide these services, so long as an EHC plan remains in place. Where the young person no longer has an EHC plan, the local authority no longer has the power to extend the provision of these services to young people over 18.
- 10.23 This will enable local authorities to agree with young people when the most appropriate time for transition to adult services will be, avoiding key pressure points such as exams or a move from school to college. Poorly timed and planned transition to adult services will have a detrimental effect on achievement of outcomes and may result in young people requiring far longer to complete their education or leaving education altogether. This can have a negative impact on their health and care needs and it is essential that the transition between children's and adult's services is managed and planned carefully.
- 10.24 As part of transition planning, the needs of carers should also be assessed or reviewed to explore the impact of changing circumstances on the carer. More guidance on planning the transition from children's to adult services can be found in Chapter 8, Preparing for adulthood from the earliest years.

10.25 Information on adult social care can be found in Chapters 8 and 9. Further information about preparing for transition can be found in the Preparing for Adulthood factsheet 'The Links Between the Children and Families Act 2014 and the Care Act'. A web link for this is given in the References section under Chapter 10.

- 10.42 Alternative provision **must** be arranged in line with a child or young person's EHC plan. Local authorities may need to amend a plan where, for example, a child or young person is no longer attending the institution named on it. They should also consider whether the EHC plan needs to be reviewed to ensure that the child or young person's SEN will be appropriately supported. Where alternative provision is specified in a child or young person's EHC plan the local authority **must** arrange that provision.
- 10.43 Where a child or young person in alternative provision has SEN that are not specified in an EHC plan then the alternative provider should employ a graduated response to these needs, as set out in Chapter 6.
- 10.44 The support that will be provided for children and young people with SEN, with or without an EHC plan, should be agreed as part of the commissioning process. To allow for continuity of support, mainstream and alternative providers should promptly share appropriate information on a child or young person's SEN. Commissioners of alternative provision should ensure that there is a clear plan for pupils' progression and keep the arrangements under regular review so that they can be adapted in response to the needs of the child or young person. Where an alternative provider has concerns that a child or young person may have SEN that are not being appropriately supported then they should raise their concerns with the commissioner and agree how these potential needs will be assessed and supported.
- 10.45 Alternative provision includes providers of online learning. Whilst it will not be appropriate in every case, online learning can offer certain benefits where there are significant barriers to a child or young person physically attending an educational institution. For example, online learning can provide for real-time teaching support, allow access to a broader curriculum and offer opportunities for students to interact with each other. Decisions on whether to arrange online learning are for the local authority or institution commissioning the provision to make, although they should take into account the views of professionals, parents or carers and the child or young person.
- 10.46 In making this decision, commissioners should give particular consideration to the support that will be provided for children or young people's SEN, as well as their social, emotional and physical development. Where feasible, online learning should be accompanied by opportunities for face-to-face contact with peers. Any decision to use online learning from a child or young person's own home should include an assessment of his or her suitability for independent learning and home circumstances.

Children and young people in alternative provision because of health needs

- 10.47 In line with local authorities' duty to arrange suitable education as set out above, children and young people who are in hospital or placed in other forms of alternative provision because of their health needs should have access to education that is on a par with that of mainstream provision, including appropriate support to meet the needs of those with SEN. The education they receive should be good quality and prevent them from slipping behind their peers. It should involve suitably qualified staff who can help pupils progress and enable them to successfully reintegrate back into school as soon as possible. This includes children and young people admitted to hospital under Section 2 of the Mental Health Act 2007.
- 10.48 Young people with health needs who are over the school leaving age should also be encouraged to continue learning. Under Raising the Participation Age legislation,

Children and young people with SEN who are in youth custody

Relevant legislation

Primary

Sections 70-75 of the Children and Families Act 2014, together with sections 28, 31, and 77

The National Health Service Act 2006

The Equality Act 2010

Section 2 of the Chronically Sick and Disabled Persons Act 1970

Section 17 of the Children Act 1989

Section 39A of the Crime and Disorder Act 1998

Section 562B of the Education Act 1996

Regulations

The Special Educational Needs and Disability (Detained Persons) Regulations 2015

The Special Education Needs and Disability Regulations 2014

The National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (Part 3 and Schedule 3)

What this section covers

10.60 This section outlines roles and responsibilities in relation to children and young people aged 18 and under who have been remanded or sentenced by the Courts to relevant youth accommodation in England. Relevant Youth Accommodation refers to a Young Offender Institution, Secure Training Centre, Secure Children's Home or Secure College. The term 'detained person' is used throughout to describe these children and young people and includes those who are voluntarily detained in a Secure Children's Home. The term 'appropriate person' is used throughout this section to describe either the detained person's parent, where the detained person is a child, or the young person, where the detained person is a young person. 'Parent' includes any person who is not a parent of the child but has parental responsibility or who cares for him or her (see Glossary).

- 10.61 This section does not apply to children and young people serving their sentence in the community, to persons detained in a Young Offenders Institution for 18- to 21-year-olds or to persons detained in the adult estate.
- 10.62 Unless otherwise stated a reference to ‘a local authority’ means the home local authority. For a detained person with an EHC plan this is the local authority which maintained their EHC plan when they were in the community. In custody a request for an assessment of post-detention EHC needs **must** be made to the home local authority, meaning where the detained person is ‘ordinarily resident’.
- 10.63 ‘The person in charge of the relevant youth accommodation’ includes the Governor, Director or Principal in charge of the accommodation.

Introduction

- 10.64 Local authorities, Youth Offending Teams (YOTs), health commissioners and those in charge of the relevant youth accommodation **must** have regard to this Code of Practice and this section should be read alongside the guidance in other chapters.
- 10.65 The principles underpinning the Code (see Chapter 1) are relevant when supporting detained persons to achieve the best possible educational and other outcomes and to prepare for adulthood and independent living. They support:
- the participation of the detained person and the child’s parents in decisions relating to their individual support. Local authorities **must** have regard to their views, wishes and feelings and **must** provide them with information, advice and support to enable them to participate
 - the timely identification and assessment of special educational needs and provision of high quality support at the earliest opportunity whether they have an EHC plan or not
 - greater collaboration between education, health and social care with a focus on continuity of provision both when a detained person enters custody and after their release. Custodial sentences are often short, it is therefore important for decisions to be made as soon as possible to ensure appropriate provision is put in place without delay

they **must** maintain and review it when the detained person is released (see paragraphs 10.121 to 10.122 and paragraph 10.136)

- If a detained person has an EHC plan before being detained (or one is completed while the detained person is in the relevant youth accommodation) the local authority **must** arrange appropriate special educational provision for the detained person while he or she is detained (see paragraphs 10.123 to 10.127)
- If the EHC plan for a detained person specifies health care provision, the health services commissioner for the relevant youth accommodation **must** arrange appropriate health care provision for the detained person (see paragraph 10.128 to 10.131). (The NHS Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations confer responsibility on the NHS Commissioning Board (NHS England) for commissioning health services in prisons and custodial establishments.)

10.67 For a detained person with an EHC plan, appropriate special educational and health care provision is the provision specified in the plan. If it is not practicable to arrange the provision specified in the EHC plan, special educational and health provision corresponding as closely as possible to that in the EHC plan **must** be arranged. If it appears to the local authority that the special educational provision in the EHC plan is no longer appropriate, the local authority **must** arrange provision it considers appropriate. Likewise, if it appears to the health care commissioner for the relevant youth accommodation that the health care provision in the EHC plan is no longer appropriate, that commissioner **must** arrange health care provision that appears appropriate to it. Local authorities should also consider whether any social care needs identified in the EHC plan will remain while the detained person is in custody and provide appropriate support for the person's needs (see paragraph 10.68).

10.80 All children and young people entering custody will be screened and assessed using the Comprehensive Health Assessment Tool (CHAT) which includes a screening for speech, language and communication needs. If a detained person has an EHC plan when they enter custody, the information in the plan as well as information from the local authority provided by the YOT, should inform or supplement this assessment. This should lead to an individual health care plan for each detained person.

Requesting an EHC needs assessment for a detained person

10.81 Appropriate support after release will help the resettlement process. Therefore, if the detained person has SEN,

- evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided, and
- evidence of the detained person's physical, emotional and social development and health needs, drawing on relevant evidence from

- Where advice from a person with relevant teaching experience or knowledge is not available and the detained person did not attend an educational institution prior to entering detention, the local authority **must** seek educational advice and information from a person who was responsible for educational provision for the detained person prior to detention

- If the detained person

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10.97 The whole process should be completed within 20 weeks from the date of the request. There may be instances where it may not be reasonable to expect local authorities and other partners to comply with the 20 week time limit. The Special

Disability Regulations 2015 'the 2015 Regulations' as 'comparable requirements'. This is intended to provide local authorities with flexibility. For instance, where a local authority has provided notification to the relevant bodies that it intends to carry out an assessment (under Regulation 4(2) of the Special Educational Needs and Disability Regulations 2014 'the 2014 Regulations') there may be no need to do so again under the 2015 Regulations, where the local authority is satisfied that this is reasonable. Where a local authority has consulted a parent or young person at the outset of the process (under Regulation 3 of the 2014 Regulations) there may be no need to do so again following a detention, where the local authority considers this reasonable. A local authority may decide that, given the

- the school or other institution or type of school or other institution (such as mainstream school/college) specified in the plan as appropriate for the detained person on their release from custody or that no school or other institution is specified

10.118 Before registering an SEN appeal with the Tribunal the appropriate person **must** consider mediation unless an exemption applies. Further information on mediation and the Tribunal is set out in Chapter 11 on Resolving Disagreements.

10.119 The local authority should work with the YOT and the person in charge of the relevant youth accommodation to ensure that the mediation information session can take place and that the detained person is able to participate in mediation if they choose to go to mediation. When a parent is a party to the mediation, the child (with the agreement of the parent, the mediator and the person in charge of the relevant youth accommodation) may also attend. Young persons placed in relevant youth accommodation may not be able to leave the establishment due to security risks. Most mediation sessions should therefore take place in the relevant youth accommodation and in some cases it may be appropriate for mediation to take place via a video link. However, in such cases, careful consideration should be given as to whether this is accessible for the detained person. The person in charge of the relevant youth accommodation **must** co-operate and support this process by providing local authorities with access to the detained person for the purpose of mediation sessions. The reasonable expenses of the detained person's parent attending mediation **must** be met by the local authority.

10.120 The person in charge of the relevant youth accommodation should also ensure arrangements are in place to enable the young person to attend a Tribunal where an appeal is made. Again, there may be security considerations involved and in some cases a Tribunal hearing could take place via a video link but only where this is accessible the young person.

Keeping an EHC plan and arranging special educational provision

10.121 Where a detained person has an EHC plan at the time of entering custody, or where an EHC plan is finalised in custody, local authorities **must** keep the plan while the detained person is in custody and **must** arrange appropriate special educational provision while they are in custody. They should work closely with the person in charge of the relevant youth accommodation who **must** co-operate with the local authority to enable them to fulfil this duty.

10.122 While the detained person is in custody the local authority **must not** amend the EHC plan, carry out a reassessment or cease to maintain the EHC plan.

10.127 Custodial sentences for detained persons are often short. It is therefore important for decisions to be made as soon as possible to enable the provision to be put in place without delay. Local authorities and the person in charge of the relevant youth accommodation should also ensure that the process for making decisions is clear, robust and transparent. Local authorities should keep records of the decisions they have made and the reasons for those decisions and make those records available to the appropriate person, the YOT and the education or training institution the detained person will be attending upon release.

Arranging health care provision for detained children and young people with EHC plans

10.128 Where a detained person has an EHC plan that specifies healthcare provision, NHS England **must** arrange appropriate health care provision while the detained person is in custody. In practice this will be carried out by a health services provider under its contractual arrangements with NHS England. NHS England should make the arrangements below when commissioning health services in the relevant youth accommodation.

10.129 It may not always be practicable to deliver the exact provision as set out in the EHC plan if, for example, the plan is specific to local health professionals or services. Where it appears impracticable to provide exactly what is in the plan, NHS England's commissioning arrangements **must** ensure that the health care provider arranges provision as close as possible to that in the plan, if it is still appropriate. In practice, although the judgment about what is practical falls to NHS England, its views will be influenced by the advice from the provider.

10.130 If it appears that the health care support specified in the plan is no longer appropriate, NHS England's commissioning arrangements **must** ensure that the health care provider arranges appropriate alternative healthcare support for the detained person. This may be the case if, for example, the health needs have changed since the detained person's last EHC plan review. Again, the assessment of what is no longer appropriate will be informed by the provider's views, although the judgment ultimately falls to NHS England. If it appears that the health care support specified in the plan is no longer appropriate this should trigger a reassessment of the detained person's EHC needs upon release.

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Monitoring provision in custody

10.132 The local authority **must** promote the fulfilment of the detained person's learning potential whilst they are in custody and on their release. Local authorities should use the EHC plan to actively monitor progress towards these and other long term outcomes.

10.133 Where a detained person is in custody within a year of the last review of their EHC plan, the local authority should conduct a monitoring meeting and continue to do so, as a minimum, every 12 months. The monitoring meeting should consider the special educational and health provision arranged for the detained person in custody and the appropriateness of the provision in the EHC plan in light of the detained person's progress. If the progress of the provision in the EHC plan appears inappropriate the local authority should follow the guidance set out in paragraph 10.125. The local authority can request that the person in charge of the relevant youth accommodation or YOT convenes the monitoring meeting. Further guidance on best practice is given in Chapter 9, Education, health and care needs assessments and plans.

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10.137 Professionals across education, health and social care are expected to co-operate with local authorities during reviews and the relevant healthcare commissioner **must** agree the healthcare provision to be included in a revised plan.

10.138 Local authorities, CCGs and NHS England **must** co-operate to ensure the health needs of detained persons whilst in custody and on release are considered in developing the local Joint Strategic Needs Assessment and the Joint Health and Wellbeing Strategy.

Moving to a new local authority on release

10.139 If the detained person is due to be released to a new local authority the YOT **must**

period for which they are remanded. This includes those who had previously been

custody, the local authority **must** maintain and review the EHC plan if the young person plans to stay in education. When reviewing the plan local authorities **must** follow the processes set out in Chapter 9, in particular the section on 19- to 25-year-olds.

- 10.148 If the young person plans to continue their education on release, the Offenders' Learning and Skills Service provider and the National Careers Service provider should liaise to ensure the responsible local authority can review the EHC plan as soon as possible.

Cross-border detention

- 10.149 Local authorities in England should support detained persons with EHC plans whose home authority is in England but who are detained in Wales in the same way that they support detained persons whose home authority is in England and who are placed in England. Local authorities in England should work with the person in charge of relevant youth accommodation and the Local Health Board to meet the needs of detained persons with EHC plans whose home authority is in England when they are detained in Wales.
- 10.150 Until the SEN legal framework is changed in Wales, host local authorities in England will be obliged to fulfill their best endeavors duty for detained persons with statements under Section 562C of the Education Act 1996 whose home authority is in Wales but who are detained in Young Offender Institutions in England.

11 Resolving disagreements

What this chapter covers

This chapter is primarily about resolving disagreements between parents or young people and early years providers, schools, colleges, local authorities or health commissioners. It:

- supports early resolution of disagreements at the local level
- explains the independent disagreement resolution arrangements which local authorities **must** make available for disagreements across special educational provision, and health and care provision in relation to Education, Health and Care (EHC) plans
- also explains the independent mediation arrangements which parents and young people can use before deciding whether to appeal to the First-tier

Early resolution of disagreements

- 11.3 Decisions about provision for children and young people with SEN should be made as soon as possible. In most cases this will be achieved by early years providers, schools, colleges, local authorities and clinical commissioning groups (CCGs) working closely together and agreeing what should be provided with parents and young people.

parents and young people to resolve disagreements about any aspect of SEN provision, and health and social care disagreements during the processes related to EHC needs assessments and EHC plans set out in Chapter 9. They can provide a quick and non-adversarial way of resolving disagreements. Used early in the process of EHC needs assessment and EHC plan development they can prevent the need for mediation, once decisions have been taken in that process, and appeals to the Tribunal.

11.8 The disagreement resolution service is to help resolve four types of disagreement or to prevent them from escalating further:

- The first is between parents or young people and local authorities, the governing bodies of maintained schools and maintained nursery schools, early years providers, further education institutions or the proprietors of academies (including free schools), about how these authorities, bodies or proprietors are carrying out their education, health and care duties for children and young people with SEN, whether they have EHC plans or not. These include duties on the local authority to keep their education and care provision under review, the duties to assess needs and draw up EHC plans and the duty on governing bodies and proprietors to use their best endeavours to meet children and young people's SEN
- The second is disagreements between parents or young people and early years providers, schools or post-16 institutions about the special educational provision made for a child or young person, whether they have EHC plans or not
- The third is disagreements between parents or young people and CCGs or local authorities about health or social care provision during EHC needs assessments, while EHC plans are being drawn up, reviewed or when children or young people are being reassessed. Disagreement resolution services can also be used to resolve disagreements over special educational provision throughout assessments, the drawing up of EHC plans, while waiting for Tribunal appeals and at review or during re-assessments
- the fourth is disagreements between local authorities and health commissioning bodies during EHC needs assessments or re-assessments, the drawing up of EHC plans or reviews of those plans for children and young people with SEN. In relation to EHC plans, this includes the description of the child or young person's education, health and care needs and any education, health and care provision set out in the plan. These disagreements do not involve parents and young people.

notice should also make clear that parents' and young people's right to appeal is not affected by entering into mediation.

11.20 If the parent or young person is considering registering an appeal and has contacted the mediation adviser, the adviser will provide information on mediation and answer any questions which the parent or young person may have. The information will normally be provided on the telephone, although information can be provided in written form, through face-

Exceptions to the requirement to contact a mediation adviser

- 11.24 Parents and young people do not have to contact the mediation adviser prior to registering their appeal with the Tribunal if their appeal is solely about the name of the school, college or other institution named on the plan, the type of school, college or other institution specified in the plan or the fact that no school or other institution is named. Parents and young people will already have had the opportunity to request a school, college or other institution and to discuss this in detail with the local authority. The disagreement resolution arrangements, as set out in paragraphs 11.5 to 11.10, would be available if parents or y*[734.28 Tm[11.)-3(24)30J0 d

following mediation they **must** send the certificate to the Tribunal when they register their appeal.

11.29 Parents and young people have one month from receiving the certificate to register an appeal with the Tribunal or two months from the original decision by the local authority whichever is the later. The certificate will not set out any details about what happened in the mediation – it will simply state the mediation was completed at a given date. When cases are registered with the Tribunal following mediation the Tribunal will deal with the appeal on the facts of the case. The Tribunal may cover similar ground to that explored in the mediation but will reach its own independent findings and conclusions. Mediation meetings are confidential and without prejudice to the Tribunal process and the Tribunal will disregard any

specified in the plan and they **must** also inform the local authority of the health care provision which he or she wishes to be specified in the plan.

- 11.33 If the parent or young person wants to go to mediation about the health care matters set out in paragraph 11.32 then the local authority **must** inform each relevant commissioning body within three working days about those matters.
- 11.34 If the parent or young person has told the local authority that they disagree with either the education and social care element of the plan or the health and one or both of the education and social care elements then the local authority **must** arrange the mediation, after the parent or young person has contacted the mediation adviser in a case involving the education element of the plan. If the parent or young person only wants to appeal about the health care aspect of the plan then the responsible health commissioning body or bodies **must** arrange for mediation between them and the parent or young person, ensure that the mediation is conducted by an independent person who is not employed by a clinical commissioning group or the National Health Service Commissioning Board, and take part in the mediation. The health commissioning body or bodies **must** also take part in the mediation arranged by the local authority if the mediation is about the health care element of the plan and either or both of the education or social care parts of the plan. They **must** pay the reasonable expenses of the parent or young person where they arrange the mediation.

must

paragraphs 11.101 to 11.111 and vice versa nor does going to mediation prevent a parent or young person subsequently complaining via those routes.

11.37

- a decision by a local authority not to amend an EHC plan following a review or re-assessment
- a decision by a local authority to cease to maintain an EHC plan

The Tribunal does not hear appeals about Personal Budgets, but will hear appeals about the special educational provision to which a Personal Budget may apply (see paragraph 9.108).

11.46 Parents and young people who are unhappy with decisions about the health and social care elements of an EHC plan can go to mediation (see paragraphs 11.31 to 11.35). They can also complain through the health and social care complaints procedures, set out in paragraphs 11.101 to 11.104 and 11.105 to 11.111.

Conditions related to appeals

11.47 The following conditions apply to appeals:

- the parent or young person can appeal to the Tribunal when the EHC

limits within which to comply with decisions of the Tribunal (see the Special Educational Needs Regulations 2014).

- 11.49 In making decisions about whether the special educational provision specified in the EHC plan is appropriate, the Tribunal should take into account the education and training outcomes specified in Section E of the EHC plan and whether the special educational provision will enable the child or young person to make progress towards their education and training outcomes. The Tribunal can consider whether the education and training outcomes specified are sufficiently ambitious for the child or young person. When the Tribunal orders the local authority to reconsider the special educational provision in an EHC plan, the local authority should also review whether the outcomes remain appropriate.

How parents and young people can appeal

- 11.50 When appealing to the Tribunal parents and young people **must** supply a copy of the decision that they are appealing against and the date when the local authority's decision was made, or the date of the mediation certificate. The parent or young person who is appealing (the appellant) will be required to give the reasons why they are appealing. The reasons do not have to be lengthy or written in legal language but should explain why the appellant disagrees with the decision. Parents and young people have to send all relevant documents, such as copies of assessments, to the Tribunal.
- 11.51 Once the appeal is registered the local authority will be sent a copy of the papers filed and will be given a date by which they **must** respond and asked to provide details of witnesses – this will apply to all parties. The parties will also be told of the approximate hearing date. Hearings are heard throughout the country at Her Majesty's Courts and Tribunals Service buildings. The Tribunal will try to hold hearings as close to where the appellant lives as possible. Appeals are heard by a judge and a panel of Tribunal members who have been appointed because of their knowledge and experience of children and young people with SEN or disabilities. The local authority will provide a bundle of papers for each of the panel members and the parent, including any document requested by the parent. Advice on making SEN appeals to the Tribunal is available from the Ministry of Justice website – a link is given in the References section under General.

11.52 A video is available from the Ministry of Justice website which gives appellants some guidance on what happens at a hearing – a link to it is given in the References section under Chapter 11. A DVD of this video can be requested from the Tribunal by writing to:

disability discrimination in relation to permanent and fixed-period exclusions may be made to the Tribunal.

11.58 Local authorities have a duty to arrange suitable, full-time education for pupils of compulsory school age who would not otherwise receive such education, including from the sixth day of a permanent exclusion. Schools have a duty to arrange suitable, full-time education from the sixth day of a fixed period exclusion (see Chapter 10, paragraphs 10.47 to 10.52 on alternative provision). Suitable education means efficient education suitable to a child's age, ability and aptitude and to any SEN the child may have.

Please note that the following figure shows the maximum time it would take to register an appeal at the Tribunal both with and without mediation and have the appeal heard. Most registrations of an appeal, even where the case goes to mediation will take a far shorter time than this. The top half the diagram is for appeals after receipt of a finalised EHC plan.

- 11.59 The young person or parent making the appeal and the local authority should both receive a copy of the Tribunal's decision and reasons by post within 10 working days of the hearing. Along with the decision notice the Tribunal will send a leaflet which will explain the application process for permission to appeal the Tribunal decision to the Upper Tribunal, if the appellant considers that the decision made was wrong in law. Local authorities can also appeal to the Upper Tribunal on the same grounds.
- 11.60 Step-by-step guidance on the process of appealing to the Tribunal and what it involves can be found at the Ministry of Justice website – a link is given in the References section under General.

Legal aid

- 11.61 If a parent or young person has decided to appeal, legal aid may be available to assist with that appeal. Legal aid can fund legal advice and assistance in preparing an appeal to the Tribunal, but not representation at the Tribunal.
- 11.62 Before someone can be granted legal aid they **must** pass a financial means assessment. The case **must** also satisfy a merits test of whether it has a reasonable chance of succeeding.
- 11.63 If the parent or young person's appeal to the Tribunal is unsuccessful, and they wish to mount a further appeal to the Upper Tribunal (or beyond to the Court of Appeal or Supreme Court), then legal aid can provide advice, assistance and representation, subject to the means and merits tests being met.
- 11.64 Legal aid for disability discrimination cases may also be available on the same basis set out above.
- 11.65 A parent or young person seeking access to legal aid for an SEN case or disability discrimination case should go to the legal aid checker on the GOV.UK website to

behalf of the Secretary of State, or, in the case of independent schools, to the

11.78 Further details about school complaints can be found at Ofsted's website – a link is given in the References section under Chapter 11.

11.79 Examples of circumstances where complaints might relate to the school as a whole include:

- the school not providing a good enough education
- the pupils not achieving as much as they should, or their different needs not being met
- the school not being well led and managed, or wasting money
- the pupils' personal development and wellbeing being neglected

11.80 Ofsted can respond to a complaint that relates to the whole school by bringing forward an inspection, or it could decide to look at the matters raised when next inspecting the school.

11.81 Complaints can co-3(i)1(ec)- iec(i)08456 4445 0401 T(i)1(o)choem(er)-3(s)so 9.62 0ink()TjEM

Local Authority complaints procedures

11.85 Some, but not all, local authorities offer a service that investigates the way in which a complaint was handled by a local authority maintained school. This may form part of a school's complaints procedure.

11.86 All local authorities have responsibility to consider complaints about decisions made in relation to the following:

- admission to schools (except in Voluntary Aided Schools)
- EHC needs assessments
- exclusion of pupils from schools
- child protection/allegations of child abuse
- complaints about the action of the Governing Body, and
- school transport

11.87 The Local Offer will make clear whether a particular local authority offers this service.

11.88 The Local Government Ombudsman provides 'top tips' for making a complaint to a local authority on its website – a link is provided in the References section under Chapter 11.

Local Government Ombudsman

11.89 The Local Government Ombudsman (LGO) can investigate complaints against local authorities where the complaint has not been resolved by the local authority's complaints procedure. The LGO investigates the process by which local authority decisions were made and whether there has been maladministration, rather than examining the merits of a decision which has been properly taken. The LGO will decide whether there has been an injustice to the complainant and/or there is evidence of maladministration. Maladministration can include delay, failure to take action and failure to follow procedures. The LGO does not investigate the merits of decisions which have been properly taken, but which the complainant thinks are wrong, but does look at the decision-making process and the delivery,

school may have played in the provision not being delivered. (The LGO cannot, otherwise, investigate complaints about schools' SEN provision and has no powers to make recommendations to a school.) In association with the Parliamentary and Health Service Ombudsman (PHSO), the LGO can also investigate complaints about the delivery of health provision set out in plans. As set out in the previous paragraph, the LGO, in association with the PHSO with regard to health, 0-1(annot)2(i)1(at)-3u 3(eg)he

- 11.97 The PHSO can also investigate a number of other organisations which have to have regard to this Code: Ofsted, the Education Funding Agency, the Skills Funding Agency, and the Department for Education (including its School Complaints Unit and the Secretary of State for Education). The PHSO will generally expect the individual to have completed the organisation's own complaints procedure first. Complaints about government departments and public organisations **must** be referred by an MP. If someone has any difficulties getting in touch with an MP, they can contact the PHSO for help.
- 11.98 The PHSO can investigate complaints that the Tribunal's administrative staff have got something wrong or acted in an unreasonable manner, although they cannot look into the actions of Tribunal members or the decisions made by the Tribunal. PHSO would generally expect the complaint to have been made to Her Majesty's Courts and Tribunals Service first. These complaints will also need to be referred by an MP.
- 11.99 More information on the role of the PHSO is available from their website – a link is given in the References section under Chapter 11.

Judicial review

- 11.100 Parents and young people can make an application to the Administrative Court for Judicial Review. The Administrative Court can consider decisions of local

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Ombudsman (LGO). See Local Government Ombudsman, paragraphs 11.89 to 11.94.

11.107 Young people aged 18 and over can complain under regulations which prescribe:

- a procedure before investigation, and
- an investigation and response process

11.108 The provider **must** acknowledge the complaint within three days and they **must** offer the complainant the opportunity to discuss the timing and procedure for resolving the complaint. Once that has been agreed, the complaint **must** be investigated and, as soon as possible after completing the investigation, a written report **must** be sent to the complainant explaining how the complaint has been considered, the conclusions of the report and any remedial action which has been taken or is proposed to be taken.

11.109 A complainant who is dissatisfied with the outcome of this process can also take their case to the Local Government Ombudsman.

11.110 Parents and young people who wish to complain about the way in which their concerns about the social care elements of EHC plans have been dealt with can use these complaint procedures whether they go to mediation about the social care elements of the plan or not.

11.111 From 2016 there will also be a new system for appealing local authority decisions made under part 1 of the Care Act. This will be detailed in future updates to Statutory

If there is doubt about a person's mental capacity, consideration needs to be given as to whether the person lacks capacity to make that particular decision, as they may have capacity to make some decisions but not others. This does not necessarily mean that a person's mental capacity has to be reassessed each time a decision needs to be taken. If there is a reasonable belief that the person lacks the capacity to make a decision based on prior knowledge of that person then the decision can be made by a parent or representative, as appropriate. **Subject to the principles above**, there are four key questions to consider in determining whether someone is able to make a decision:

- Can the person understand information relevant to the decision, including understanding the likely consequences of making, or not making the decision?
- Can they retain this information for long enough to make the decision?
- Can they use and weigh the information to arrive at a choice?
- Can they communicate their decision in any way?

If the answer to any of these questions is **'no'** (**bearing in mind that if an individual needs a lot of support to make and communicate a decision it does not mean they are incapable of making a decision**) then the person lacks capacity to make that decision at that time.

The Special Educational Needs and Disability Regulations 2014 specify the particular occasions when a representative or parent has to act on behalf of a young person who lacks capacity or a representative if the child or young person's parent lacks capacity.

There are some occasions when a local authority **must** take account of the views of the young person as well as any representative. These are when the local authority is:

- having regard to the views and wishes of a child, the child's parent or a young person when carrying out its functions under Part III of the Act (Section 19)

- arranging for information and advice to be provided to children, their parents and young people and taking steps to make information and advice services known to those people (Section 32)

The Regulations also specify the following occasions when the local authority considers the views of the representative instead of the parent or young person.

Annex 2: Improving practice and staff training in education settings

Early years providers, schools and colleges are responsible for deciding what external support to seek and for setting their own priorities for the continuous professional development of their staff. The support described in this guidance can be delivered most effectively in education

- The Dyslexia SpLD Trust on dyslexia and literacy difficulties (www.thedyslexia-spldtrust.org.uk)
- The National Sensory Impairment Partnership for vision impairment, hearing impairment and multi-sensory impairment (www.natsip.org.uk)

Each of these organisations is working

Glossary of terms

Academy: A state-funded school in England that is directly funded by the Department for Education, through the Education Funding Agency. Academies are self-governing and independent of local authority control.

Access to Work: An Access to Work grant from the Department for Work and Pensions helps to pay for practical support for young people and adults who have a disability, health or mental health condition so they can start work, stay in work or start their own business. It can pay for things like special equipment, fares to work if public transport is not practical, a support worker or coach in the workplace or a communicator at a job interview.

Annual review: the review of an EHC plan which the local authority must make as a minimum every 12 months.

Armed Forces Covenant: The armed forces covenant sets out the relationship between the nation, the government and the armed forces. It recognises that the whole nation has a moral obligation to members of the armed forces and their families and it establishes how they should expect to be treated. The Covenant states that the children of service personnel should have the same standard of, and access to, education (including early years services) as any other UK citizen in the area in which they live.

Care Plan: A record of the health and/or social care services that are being provided to a child or young person to help them manage a disability or health condition. The Plan will be agreed with the child's parent or the young person and may be contained within a patient's medical record or maintained as a separate document. Care Plans are also maintained by local authorities for looked after children – in this instance the Care Plan will contain a Personal Education Plan in addition to the health and social care elements.

Child and Adolescent Mental Health Services (CAMHS): These services assess and treat children and young people with emotional, behavioural or mental health difficulties. They range from basic pastoral care, such as identifying mental health problems, to specialist 'Tier 4' CAMHS, which provide in-patient care for those who are severely mentally ill.

Children and young people's secure estate: This comprises three types of establishment – secure children's homes, secure training centres and young offender institutions.

Comprehensive Health Assessment Tool (CHAT): An assessment tool for young people in the youth justice system. It ensures that young people in the secure estate and in the community receive a comprehensive assessment of their

physical and mental health, substance misuse and neuro-disability needs on entry to the system.

Compulsory school age: A child is of compulsory school age from the beginning of the term following their 5th birthday until the last Friday of June in the year in which they become 16, provided that their 16th birthday falls before the start of the next school year.

Disabled Students Allowance (DSA): An allowance for undergraduate or post-graduate students who have a disability or long-term health condition, mental health condition or specific learning difficulty such as dyslexia or dyspraxia which affects their ability to study. It can be used to pay for things such as special equipment, a note-taker or transport costs.

Disagreement resolution: This is a statutory service commissioned by local authorities to provide a quick and non-adversarial way of resolving disagreements between parents or young people and bodies responsible for providing education, whether the child or young person has an EHC plan or not, or health and social care in relation to EHC assessments and plans. Disagreement resolution services can also be used in cases of disagreement between local authorities and health commissioning bodies during EHC needs assessments, the drawing up of EHC plans or the reviewing of those plans.

Early Help Assessment: A social care assessment of a child and his or her family, designed to identify needs at an early stage and enable suitable interventions to be put in place to support the family.

Early Support Programme: The Early Support Programme co-ordinates health, education and social care support for the parents and carers of disabled children and young people from birth to adulthood. A key worker is assigned to families

Technical Colleges, studio schools and free schools, as well as building maintenance programmes for schools and sixth-form colleges.

Education, Health and Care plan (EHC plan): An EHC plan details the education, health and social care support that is to be provided to a child or young person who has SEN or a disability. It is drawn up by the local authority after an EHC needs assessment of the child or young person has determined that an EHC plan is necessary, and after consultation with relevant partner agencies.

Elected members: The elected members of a county council or unitary local authority (as opposed to the salaried officials of the council or local authority). Some elected members have a lead responsibility for specific areas of policy, for example the Lead Member for Children's Services.

First-tier Tribunal (Special Educational Needs and Disability): An independent body which has jurisdiction under section 333 of the Education Act 1996 for determining appeals by parents against local authority decisions on EHC needs assessments and EHC plans. The Tribunal's decision is binding on both parties to the appeal. The Tribunal also hears claims of disability discrimination under the Equality Act 2010.

Free school: A free school is a type of academy, which is free to attend, but is not controlled by the local authority. Free schools receive state funding via the Education Funding Agency. Parents, teachers, businesses or charities can submit an application to the Department for Education to set up a free school.

Further education (FE) college: A college offering continuing education to young people over the compulsory school age of 16. The FE sector in England includes general further education colleges, sixth form colleges, specialist colleges and adult education institutes.

Graduated approach: A model of action and inter tw -4 -2.nd in5od/a

operation of clinical commissioning groups; allocating resources to clinical commissioning groups, and commissioning primary care and specialist services.

NHS foundation trust: NHS foundation trusts are not-for-profit corporations that provide NHS hospital, mental health and ambulance services. NHS foundation trusts are not directed by the Government, but are accountable to their local communities through their members and governors, to their commissioners through contracts and to Parliament through their annual report and accounts. Foundation trusts are registered with and inspected by the Care Quality Commission.

NHS Mandate: The NHS Mandate is issued by the government to NHS England. It sets out the government's ambition for the National Health Service and provides direction to NHS England. The mandate will be reviewed annually.

NHS trust: NHS trusts are public sector bodies that provide community health, hospital, mental health and ambulance services on behalf of the NHS in England and Wales. Each trust is headed by a board consisting of executive and non-executive directors, and is chaired by a non-executive director.

Non-maintained special school: Schools in England approved by the Secretary of State under section 342 of the Education Act 1996 as special schools which are not maintained by the state but charge fees on a non-profit-making basis. Most non-main0 Tc 00.001 1 Tc 0.003 Tw(t)-3()1(al)1()-3(M0)N. Monp-3(.)TJ0 Tc -1(t)2-3(hr)-3(ousw

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Service Children's Education (SCE): SCE oversees the education of UK Service children abroad. It is funded by the Ministry of Defence and operates its own schools as well as providing advice to parents on UK and overseas schools.

Young person: A person over compulsory school age (the end of the academic year in which they turn 16). From this point the right to make decisions about matters covered by the Children and Families Act 2014 applies to the young person directly, rather than to their parents.

Youth Justice Board (YJB): The Youth Justice Board for England and Wales is an executive non-departmental public body. Its board members are appointed by the Secretary of State for Justice. The YJB oversees the youth justice system in England and Wales, works to prevent offending and reoffending by children and young people under the age of 18 and ensures that custody for them is safe, secure and addresses the causes of their offending behaviour.

Youth Offending Team (YOT): Youth offending teams are part of local authorities and are separate from the police and the justice system. They work with local agencies including the police, probation officers, health, children's services, schools and the local community, to run local crime prevention programmes, help young people at the police station if they're arrested, help young people and their families at court, supervise young people serving a community sentence and stay in touch with a young person if they're sentenced to custody.

References

General

These references are used many times across the Code and are therefore not repeated under individual chapters:

[Care Act 2014](#)

[Children and Families Act 2014](#)

[Education Act 1996](#)

[Equality Act 2010](#)

[First-tier Tribunal \(Special Educational Needs and Disability\)](#)

[Office for Standards in Education \(Ofsted\)](#)

[Pathfinder information packs](#)

[Special Educational Needs \(Personal Budgets\) Regulations 2014](#)

[Special Educational Needs and Disability Regulations 2014](#)

Introduction

[Children Act 1989 Guidance and Regulations Volume 2 \(Care Planning, Placement and Case Review\)](#)

[Children Act 1989 Guidance and Regulations Volume 3 \(Planning Transition to Adulthood for Care Leavers\)](#)

[Equality Act 2010: Advice for Schools](#)

[Mental Capacity Act Code of Practice: Protecting the Vulnerable 2007](#)

[Reasonable adjustments for disabled pupils 2012:](#)

[Supporting pupils at school with medical conditions](#)

[Transition to the new 0-25 special educational needs and 1\(egu\)-5\(l\)116014](#)

Chapter 2: Impartial information, advice and support

[Children's Education Advisory Service \(CEAS\)](#)

[Early Support Programme](#)

[Family Information Services](#)

[Information, Advice and Support Services Network](#)

[Mental Health Action Plan – Closing the Gap 2014](#)
[Ordinary Residence Guidance 2013 \(DoH\)](#)

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