

Rights, Roles and Responsibilities

Children have rights and education professionals, governors, parents and others have different responsibilities in meeting children's special educational needs. This paper outlines the roles and responsibilities of each group of people who have duties or entitlements, which are defined in the law relating to children with special educational needs.

The Local Education Authority

The LEA, in partnership with schools, has a statutory duty to promote high standards of education for all children, including those with SEN (CoP 1:10). It provides broad guidance on the relationships between LEAs, governing bodies and head teachers in their respective roles in achieving excellence for all children.

The LEA must ensure that the needs of children with SEN are identified and assessed and their needs matched by appropriate provision.

For children who need a Statement, there is a strict timetable covering the process.

The timetable for Statutory Assessment

6 weeks: When the LEA receives a request from parents or from a school for a statutory assessment of a child's SEN, the LEA has 6 weeks to decide whether to assess or not to assess.

16 weeks: If the LEA decides to make a statutory assessment, it has 10 weeks to seek advice and decide whether to make a statement or to issue a Note in Lieu (of a statement).

18 weeks: After deciding to make a Statement, the LEA has 2 weeks in which to write and issue a proposed statement (or, a Note in Lieu).

26 weeks: Parents, school and professionals may comment on, and seek changes to, the proposed statement, but 8 weeks (maximum) after issuing a proposed statement, the LEA must issue a Final Statement. (CoP 8:134)

The LEA provides support for schools through published information (like this paper), in-service training, the Advisory Service and support services, such as the Special Educational Needs Support Service, the Educational Psychology Service and the Service for Autism Support. The LEA ensures that good practice, including provision for children with SEN, is disseminated.

In consultation with schools and others, the LEA has a duty to develop systems (monitoring and accountability) for SEN and review the arrangements for SEN provision (Section 315, Education Act 1996).

The LEA works with schools to evaluate the effectiveness of their school funding arrangements in raising the achievement of children with SEN. (CoP 1:12)

The LEA must publish policies on SEN together with information about how the LEA:

- promotes high standards of education for children with SEN;
- encourages children with SEN to participate fully in their school and community and to take part in decisions about their education;
- encourages schools to share their practice in providing for children with SEN;
- works with other statutory and voluntary bodies to provide support for SEN children. (CoP 1:13).

The LEA must also have in place published plans setting out objectives, targets and timescales covering the arrangements for:

- identifying children with SEN;
- monitoring the admission of children with SEN (whether or not those children have a statement) to schools in their area;
- organising the assessment towards children's SEN statements;
- providing support to schools with regard to making provision for children with SEN auditing, planning, monitoring and reviewing provision for SEN children;
- supporting pupils with SEN through School Action and School Action Plus;
- securing training, advice and support for staff working in SEN;
- reviewing and updating the policy and development plans on a regular basis;
- explaining the provision for children with SEN (but without statements) which the LEA expects normally to be met from schools' budget shares and the provision that the authority expects to be met from funds which it holds centrally. (CoP 1:14).

The LEA has a duty to ensure the inclusion of children with SEN in mainstream schools. It also monitors and reviews the role and quality of support services and parent partnership services; takes account of current and predicted pupil numbers; monitors the kinds of needs that are identified and where children are placed; and develops and reviews SEN policies in consultation with schools and others. (CoP 1:15)

For a child with a statement of special educational needs, the LEA is responsible for the special educational provision and, in finalising the statement, considering the school's suitability. (CoP 1:36)

The LEA must write to all head teachers (and to certain organisations) no less than two weeks

before the start of each term with a list of all pupils on roll at their school who will require an annual review that term (CoP 9:10 and see *Wakefield - Annual Review Paper*).

Parents

The SEN Code of Practice stresses the importance of teachers, governors and all education professionals working in partnership with parents (CoP Chapter 2).

The parent of every child of compulsory school age (5 to the end of the school year in which the child becomes 16) "shall cause him to receive efficient full-time education suitable: (a) to his age, ability and aptitude, and (b) to any special educational needs he may have, either by regular attendance at school or otherwise." (Education Act 1996 Chapter 56, Section 7). While there is no direct statutory duty on parents to seek assessment of a child's possible SEN, this wording of the legislation imposes an implied responsibility.

Parents can request the LEA to carry out a statutory assessment of a child's special educational needs at any time, from birth up to when the child leaves school, although assessments of children under two are rare (CoP 4:48).

Parents can express a preference for the school they wish their child to attend (or to educate their child at home) and the LEA must comply with that preference unless the provision "is unsuitable to the child's age, ability, aptitude or special educational needs, or the placement would be incompatible with the efficient education of the other children with whom the child would be educated, or with the efficient use of resources" (Schedule 27, Education Act 1996). Parents often do not appreciate that a Statement of SEN can restrict their right to choose, or express a preference for, a school

because the LEA must consult a preferred school to be satisfied that the school can meet the child's special educational needs (CoP 8:63).

The SEN Code of Practice states that parents also have a responsibility "to communicate effectively with professionals to support their children's education." (CoP 2:11)

The question as to who is legally responsible for a child is defined in The Children Act 1989. Married parents, living together or separated, normally retain parental responsibility. For unmarried parents, only the mother has parental responsibility unless the father has been granted parental responsibility by a Court, or has made a parental responsibility agreement with the mother. If a Residence Order is in place (e.g. a child is placed with grandparents), the persons named have parental responsibility (CoP 2:4). For a child in care, the LEA has parental responsibility, which may be carried out by foster parents, care workers or guardians. For a child in voluntary care, parents retain responsibility (CoP 2:5).

School Governors

School Governing bodies should, with the head teacher, decide the school's general policy and approach to meeting the special educational needs of pupils with and without statements. They must set up appropriate staffing and funding arrangements and oversee the school's work. (CoP 1:16)

Governors have a duty under section 317 of the Education Act 1996 to do their best to ensure that the necessary provision is made for pupils with SEN. The School Standards and Framework Act 1998 requires governors to conduct the school with a view to promoting high standards. These high standards relate to all the pupils in the school including those with SEN (CoP1:17).

Governors must ensure that parents are notified of a decision by the school that SEN provision is being made for their child (CoP 1:21 and Section 313, Education Act 1996).

Governors should ensure that all teachers in the school are aware of the importance of identifying, and providing for, pupils who have special educational needs (CoP 1:39)

As part of the performance management framework the governors set objectives for the head teacher, all of which should include SEN. (CoP 1:18)

Governors must appoint a 'responsible person' who makes sure that all those who are likely to teach a pupil with a statement of special educational needs are told about the statement. The 'responsible person' is generally the head teacher. (CoP 1:19).

Governing bodies can appoint a governor (or a sub-committee) to have oversight of the school's SEN arrangements and provision (CoP 1:20). Unless a governor has been appointed the 'responsible person' he or she should not attend Annual Reviews nor have access to pupils' personal information.

The governing body must also:

- ensure that a pupil with special educational needs joins in the activities of the school together with pupils who do not have special educational needs, so far as is reasonably practical and compatible with the child receiving the special educational provision their learning needs call for and the efficient education of the pupils with whom they are educated and the efficient use of resources;

- report to parents on the implementation of the school's policy for pupils with special educational needs;
- have regard to the SEN Code of Practice when carrying out its duties ;
- ensure that parents are notified of a decision by the school that SEN provision is being made for their child.

Governing bodies, including governors of special schools, must publish information about, and report on, the school's policy on special educational needs. This information must be freely available to parents. While the governing body and the head teacher will take overall responsibility for the school's SEN policy, the school as a whole should be involved in its development.

Schools may consult the LEA and other schools in the interests of co-ordinated special educational provision within the area as a whole. (CoP 1:26)

A school's SEN policy, like all policies, should be subject to a regular cycle of monitoring, evaluation and review. Governing bodies must, at least annually, consider and report on the effectiveness of the school's work on behalf of children with special educational needs. (CoP 1:27)

The governing body's annual report must include information on the implementation of the governing body's policy on pupils with special educational needs and any changes to the policy during the last year. (CoP 1:28)

For a complete account of Governors' responsibilities for SEN, see Chapter 7 of "A Guide to the Law for School Governors", DfES, 2004 Ref: GTTLC2004.

The Head Teacher

The head teacher has responsibility for the day-to-day management of all aspects of the school's work, including provision for children with SEN. The head teacher should keep the governing body fully informed and also work closely with the school's SEN co-ordinator or team. Many head teacher responsibilities can be delegated to colleagues. For example, a school must tell parents if a child is receiving special educational provision, but a head teacher may well decide that the class teacher is the best person to discuss this with parents in the first instance (CoP 4:12, 5:40 and 6:47).

The head teacher will normally be the 'responsible person' who makes sure that all who are likely to teach a pupil with a statement of SEN are told about the child's statement. (CoP 1:19 and 8:116)

A head teacher can decide that a temporary disapplication from the National Curriculum may be appropriate. This could happen when the school is requesting a statutory assessment. (CoP 7:11)

The head teacher can decide to ask the LEA for a statutory assessment of a child's special educational needs, after the school has consulted the child's parents and when the school is able to provide evidence of:

- action through *School Action* and *School Action Plus* ;
- individual education plans for the pupil
- records of regular reviews and their outcomes ;
- the pupil's health needs including the child's medical history;
- National Curriculum levels attainments in literacy and mathematics ;
- educational and other assessments, for example from an advisory specialist

support teacher or an educational psychologist ;

- the views of the parents and of the child;
- the involvement of other professionals;
- any involvement by the social services or education welfare service.

The head teacher (or representative) is responsible for ensuring the above information is supplied. (CoP 5:64 and 6:72)

For children with statements, the head teacher initiates the Annual Review process on receipt of the termly list of annual reviews from the LEA. When such duties are delegated, the head teacher should ensure that the teacher is aware of the SEN Code of Practice and the Regulations, and that all parties involved in the review know the name of the teacher in question. The head teacher should also ensure that the designated teacher is aware of all relevant representatives of the health services, social services department, the Connexions Service where relevant and any individual professionals who should be invited to the review. (CoP 9:12 and *Paper on Annual Reviews*)

Before a review meeting, the head teacher must request written advice from the child's parents, anyone specified by the LEA and anyone else the head teacher considers appropriate. The head teacher must also circulate a copy of all advice received to all those invited to the review meeting at least two weeks before the date of the meeting, inviting additional comments, including comments from those unable to attend the review meeting. (CoP 9:13)

The head teacher must invite to an annual review:

- the child's parents / carers;
- a relevant teacher;
- the SENCO;
- a representative of the placing LEA

- a representative from the receiving school, (for a review before a child transfers to another school);
- agencies that may play a major role in the young person's life during the post-school years (for a child in Y9).

The child should be invited to his or her review, as well as representatives of the health and social services, and any other professionals whose advice will be relevant. (CoP 9:16, 9:20, 9:39 and 9:46)

Where the child with a statement is subject to a care order, head teachers should consider involving the social worker in preparing parents or carers for an annual review. (CoP 9:25 and 9:26)

The head teacher (or representative) will chair the annual review (CoP 9:28)

Following the annual review meeting, the head teacher must write a report of the meeting and a summary of the recommendations, using a Wakefield form AR10. The report must be sent to the LEA no later than ten days after the meeting or by the end of term, whichever is earlier.

The head teacher must send a copy of the report to all concerned in the review, including the parents and professionals. (CoP 9:32)

For a review in Y9, the head teacher must invite the Connexions Service and should facilitate the transfer of relevant information to ensure that young people receive any necessary specialist help or support during their continuing education or training after leaving school. The head teacher must also ensure that a Transition Plan is drawn up. (CoP 9:49 and 9:50) For a review in Y11, the head teacher must invite the Connexions Service and ensure that the Transition Plan is updated. Where post-16

provision has been identified, the head teacher should invite a representative to the review (CoP 9:62).

Where a school identifies a pupil with a statement of special educational needs who is at serious risk of disaffection or exclusion, an interim or early review should be called to consider the pupil's changing needs and to recommend amendments to the statement, as an alternative to the pupil being excluded. (CoP 9:44). Before this, for a child with identified SEN at serious risk of disaffection or exclusion, the IEP should reflect appropriate strategies to meet their needs. (CoP 5:52 and 6:60)

The Headteacher (or Acting Headteacher) is the only person who can exclude a pupil. Further information on exclusion procedures can be found in *Wakefield LEA's GUIDANCE FOR CLERKS TO PUPIL DISCIPLINE COMMITTEES (revised July 2003)*.

DfEE: Social Inclusion: Pupil Support (Circular 10/99) sets out guidance on pupil attendance, behaviour, exclusion and re-integration. Further statutory guidance can be found in *Inclusive Schooling - Children with Special Educational Needs* issued in November 2001 (Ref: DfES/0774/2001).

SENCO

The Special Educational Needs Co-ordinator (or team), working closely with the head teacher, senior management and fellow teachers, should be closely involved in the strategic development of the school's SEN policy and provision. (CoP 5:30)

The SEN Code of Practice lists the following key responsibilities of a SENCO:

- overseeing the day-to-day operation of the school's SEN policy (particularly

through School Action and School Action Plus);

- coordinating provision for children with special educational needs;
- liaising with and advising fellow teachers;
- managing learning support assistants;
- overseeing the records of all children with special educational needs;
- liaising with parents of children with special educational needs;
- contributing to in-service staff training ;
- liaising with external agencies including the LEA's support and educational psychology services, health and social services, and voluntary bodies. (CoP 5:32).

It is no longer a statutory requirement for a school to keep a register of SEN children, although many schools find it good practice to keep such a register, recording children at School Action and School Action Plus and any children undergoing statutory assessment or having a statement.

The LEA provides a variety of training for SENCOs, who should be fully aware of the requirements of the SEN Code of Practice and the SEN Toolkit.

For advice on specific SEN issues and procedures, SENCOs can ring SEN Group on 5656 (FeatureNet) or 01924 305656 (BT), or email SEN Group on sengroup@wakefield.gov.uk

Class Teacher

If a child has an identified special educational need when they start primary school, the head teacher, SENCO and the child's class teacher should:

- use information from the child's previous education to provide an appropriate curriculum;
- identify the child's skills and highlight areas for support;
- use curricular and baseline assessment to allow the child to show what they can do and identify learning difficulties;
- ensure that observation and assessment provide feedback to plan the child's learning;
- involve parents in developing a joint learning approach at home and in school. (CoP 5:10).

Class teachers should consult the SENCO if a child is not making progress. Moving to School Action could be considered. (CoP 5:39 and 5:45)

School Action is when a class teacher or SENCO identifies a child with SEN and the class teacher provides interventions that are additional to or different from those normally provided. (CoP 5:43)

While a SENCO may take the lead in the further assessment, planning support and reviewing action, the class teacher remains responsible for working with the child on a daily basis. (CoP 5:47)

The delivery of interventions recorded in the IEP is the responsibility of the class teacher. (CoP 5:59)

Class teachers are involved in ascertaining the views of the child as part of any assessment. (CoP 7:85)

The child's class teacher or SENCO should attend an Annual review meeting. (CoP 9:16)

In School Action Plus, the SENCO and the class teacher need to be clear why they need external assistance. (CoP 10:12)

All teaching staff should be involved in developing the school's SEN policy and should be fully aware of the school's SEN procedures. (CoP 1:39)

Support Assistant

Like teaching staff, all support staff should be involved in the development of the school's SEN policy and be fully aware of the school's procedures for identifying, assessing and making provision for pupils with SEN. (CoP 1:39)

Support staff are responsible to the head teacher, but are generally managed on a day-to-day basis by the SENCO (CoP 5:32 and 6:35)

The Pupil

Pupils have a right to have their educational needs met (1996 Education Act) and a right to assessment if they are thought to have special educational needs. The SEN Code of Practice identifies other specific areas where a pupil has rights:

- For the majority of children a mainstream setting will meet their special educational needs; (CoP 1:2)
- All schools should admit pupils with already identified special educational needs, as well as identifying and providing for pupils not previously identified as having SEN. Admission authorities cannot refuse to admit children on the grounds that they do not have a statement of special educational needs or are currently being assessed; (CoP 1:33)
- An infant class containing 5, 6 or 7 year olds in a maintained school can go over the 30-pupil limit in order to allow the admission of a pupil with a statement of SEN; (CoP 1:34)
- Children have a right to receive and make known information, to express

- an opinion, and to have that opinion taken into account in any matters affecting them; (CoP Chapter 3 and Articles 12 and 13, The United Nations Convention on the Rights of the Child)
- All children should be involved in making decisions where possible right from the start of their education; (CoP 3:4 and 3:6)
 - When an Individual Education Plan (IEP) is developed the child is involved at an appropriate level; (CoP 3:7)
 - Classroom organisation (primary) should include opportunities for choice and decision-making for all children; (CoP 3:8)
 - Pupil participation should be the goal for all children; (CoP 3:9)
 - Children and young people who attend special schools should be offered the same opportunities for involvement and participation as their peers in mainstream schools; (CoP 3:10)
 - Professionals such as advisory teachers, educational psychologists, etc. should listen to the child's views and record those views within reports; (CoP 3:12)
 - Pupils with special educational needs should become progressively more involved in setting and evaluating targets within the IEP process; (CoP 3:14)
 - Pupils' views should be sought and recorded as part of the statutory annual review process; (CoP 3:15)
 - Many pupils will be able and eager to attend the review meeting and to express their views and preferences directly; (CoP 3:16)
 - Parents and pupils should have their views listened to and recorded separately and with respect for any differences of opinion; (CoP 3:17)
 - Schools and professionals need to help the pupil to understand the agreed outcomes of any intervention, such as a statutory assessment, and how the pupil can be a partner in working towards the goals; (CoP 3:18)
 - A pupil who is 'looked after' by the local authority needs to know and understand when a social worker or carer is acting as the corporate parent and when they are acting as advocate for the child; (CoP 3:19)
 - Children with special educational needs should be consulted. (CoP 3:21) School and LEA staff will need information and training on consulting children with communication difficulties; (CoP 3:22)
 - Children may need additional help to be able to make their views and wishes known and efforts should be made to arrange for this help to be provided where it is needed; (CoP 3:25)
 - Pupils should be given the opportunity to talk in private if necessary about their concerns and appropriate action should be taken; (CoP 3:26)
 - Schools should be aware of the full range of local services provided by social services departments particularly for children regarded as being 'in need'; (CoP 5:28)
 - When children move schools, school records must be transferred within 15 school days; (CoP 5:66)
 - Secondary schools should receive copies of the statements of pupils transferring to them; (CoP 6:6)
 - Pupils and their parents should be involved in planning and agreeing targets to meet their needs; (CoP 6:9)
 - Pupils have a right to access the National Curriculum; (CoP 6:17)

- The pupil record or profile for a child with SEN should include information about the pupil's progress and behaviour from the pupil's school(s), from the parents, from relevant agencies and the pupil's own perception of any difficulties and how they might be addressed; (CoP 5:25 and 6:27)
- All pupils should know what is expected of them in school; (CoP 6:44)
- *School Action* involves the collection of information about the pupil, including seeking information from the parents and others; (CoP 6:54)
- Short-term targets for an Individual Education Plan (IEP) can be set for or by the pupil; (CoP 6:58)
- The IEP should be discussed with the pupil and the parents; (CoP 6:59)
- Where a pupil with identified SEN is at serious risk of disaffection or exclusion the IEP should reflect appropriate strategies to meet their needs. (CoP 6:60)

Parent Partnership Service

A local education authority must arrange for the parent of any child in their area with special educational needs to be provided with advice and information about matters relating to those needs. LEAs must take whatever steps they consider appropriate to make parent partnership services known to parents, head teachers, schools and others they consider appropriate. (Section 332A, Education Act 1996 and CoP 2:16)

The Parent Partnership Service should:

- provide flexible services for parents, including access to other agencies and organisations, and, for all parents who

- want one, access to an Independent Parental Supporter;
- provide accurate, neutral information on parents rights, roles and responsibilities within the SEN process, and on the wide range of options available, to enable them to make informed decisions;
- provide training for parents, Independent Parental Supporters and school staff;
- work with schools, LEA officers and other agencies to help them develop positive relationships with parents;
- establish and maintain links with voluntary organisations;
- ensure that parents' views inform and influence the development of local SEN policy and practice. (CoP 2:31)

Voluntary Groups and Agencies

Voluntary groups can:

- encourage schools and local authorities to develop partnerships with them, by explaining what services they can offer parents and carers;
- facilitate information and explain procedures to parents and talk them through the options available to them;
- take a proactive role in parent partnerships.;
- develop a sense of ownership, seeking representation on advisory groups and other consultative activities;
- encourage schools and LEAs to adopt best practice . (CoP 2:31)

Useful numbers

SEN Group: 01924 305656
(Featurenet:5656)

email: sengroup@wakefield.gov.uk

fax: 01924 305549

Parent Partnership: 01924 303662

email:
parentpartnership@wakefield.gov.uk

SENSS: 01924 303660

email: sens@wakefield.gov.uk

EPS: 01924 306673

email: eps@Wakefield.gov.uk