

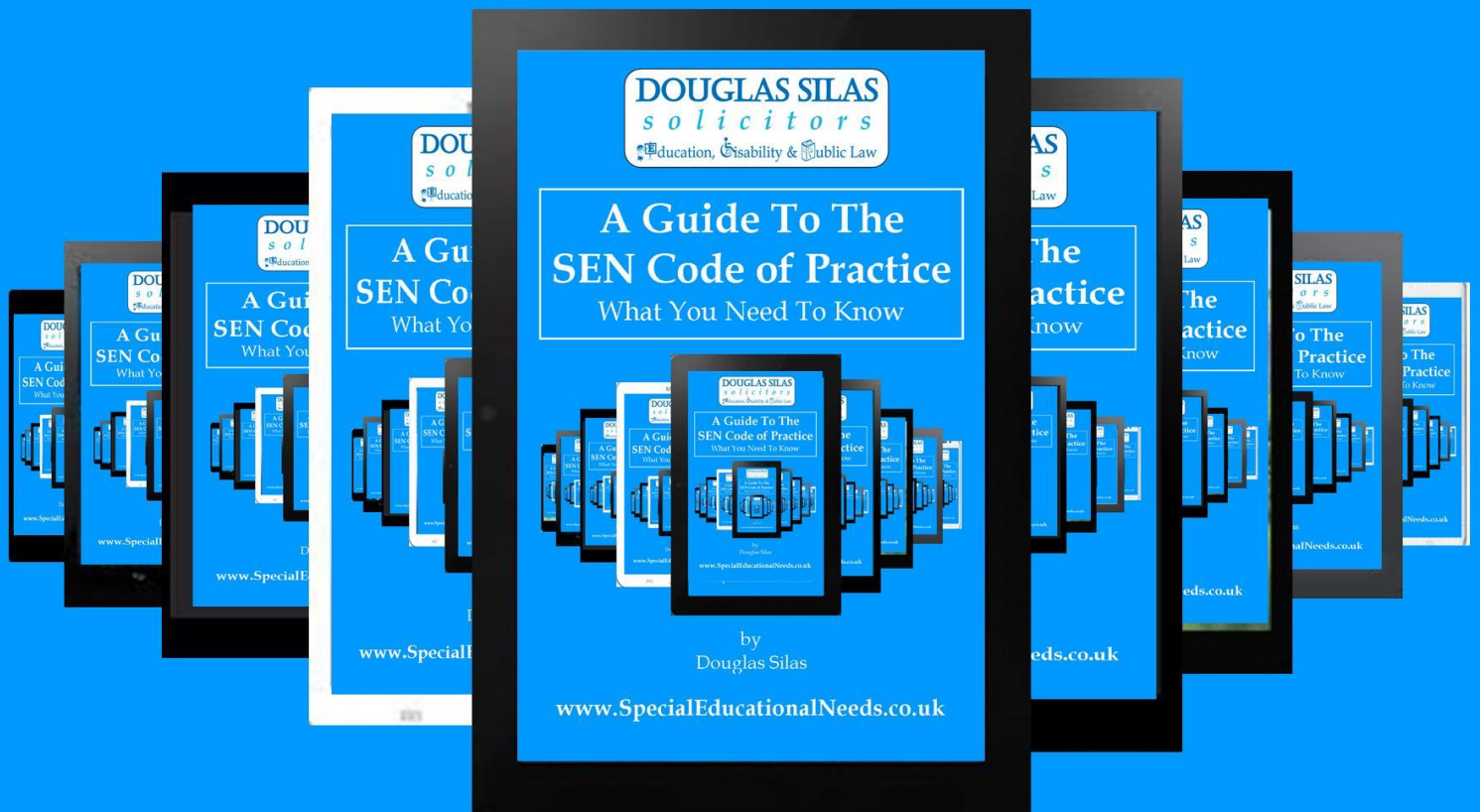
DOUGLAS SILAS

s o l i c i t o r s

Education, Disability & Public Law

A Guide To The SEN Code of Practice

What You Need To Know



by
Douglas Silas

www.SpecialEducationalNeeds.co.uk

*Nothing in life is to be feared,
it is only to be understood.*

Marie Curie

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Douglas Silas

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ABOUT THE AUTHOR



Douglas specialises exclusively in SEN and has done so successfully for nearly two decades. He is widely respected and internationally recognised as a leading expert in his field. Douglas has advised & represented thousands of parents of children/young people with SEN/Disability and has trained a wide variety of people in this field over the years. He has been consistently named as an expert in Education Law by the leading UK legal directories for well over a decade.

During his career, Douglas has helped many parents get the right educational provision or placement for their child, even where they thought that there was no hope left. He specialises in handling the more difficult or complicated cases, sometimes succeeding where parents have already been unsuccessful previously.

WEBSITE

Douglas' website www.SpecialEducationalNeeds.co.uk provides a lot of free information about SEN and is nationally recognised, getting many thousands of visitors (both personal and professional) every month.

AWARDS

In 2011, Douglas was shortlisted by the Law Society for its prestigious 'Solicitor of the Year (Private Practice)' award in its annual Excellence Awards. In 2013, Douglas received the first 'Outstanding Achievement' award at the Modern Law Awards. At the time of publication, in Summer 2014, Douglas has already been named 'Education Lawyer of the Year in England' in the Corporate International Global Awards 2014 and also 'UK - Education Lawyer of the Year' in the ACQ Global Awards 2014. He has also just found out that he has been shortlisted by the Law Society, for 'Solicitor of the Year (Private Practice)' for the second time in this year's Excellence Awards, to be announced in Autumn 2014.

PERSONAL

Douglas is physically disabled himself and is a wheelchair-user. He has a rare, progressive, degenerative, neurological condition known as Cerebellar Ataxia, for which there is no treatment or cure, This affects his speech, eyesight and mobility/co-ordination but, as he likes to say, it does not affect his life expectancy, cognition or, most importantly, his sense of humour!

In recent years, Douglas has become well-known for cycling a specially-modified trike to raise money for Norwood, a charity for children with disabilities. In 2011, he rode 380km across southern Israel. In 2012, he rode 420km across Sri Lanka. In 2013, he rode 380km across northern Israel and then 450km across Madagascar back to back! Douglas has so far raised over £80,000 for charity. In 2012, Douglas was named an 'Unsung Hero' by the charity, 'Jewish Care', for trying to help others despite facing his own adversities.



PART 1

THE SEN FRAMEWORK

CHAPTER 1

ABOUT THIS GUIDE

*“Education is what survives,
when what has been learnt has been forgotten.”*

B. F. Skinner

INTRODUCTION

As I write this, we are on the verge of entering a new era for [special educational needs](#) (referred to as [SEN](#) throughout this guide).

Unfortunately, the new [SEN Code of Practice](#) ('CoP'), in force from 1st September 2014, was not actually issued in its final form until 28th July 2014. Although earlier versions of it were issued in Autumn 2013 (at 174 pages) and it was then revised in Spring 2014 (at 253 pages), it was not until April 2014 that a final draft was issued (at 281 pages). This is the version that has now been approved (it is now 282 pages).

The CoP is 'Statutory Guidance' but is based on primary legislation contained in [Part 3](#) of the new [Children & Families Act](#) ('C+FA') 2014 (and other associated Regulations), which replaces [Part 4](#) of [the Education Act](#) ('EA') 1996. It has been hailed as *'the biggest shake-up to SEN for 30 years'*. It makes some fundamental changes to the [SEN](#) system; by replacing 'Statements of SEN' ('Statements') with ['Education, Health & Care \('EHC'\) plans'](#); covers 0-25 years of age (as opposed to 2-19); and seeks better integration between Local Authorities ('LAs') and others working with education, health and care provision. It also calls for children and (now) 'young people' with [SEN](#) or a disability ('SEND') and their families, to be put at the centre of the process.

REASON FOR THIS GUIDE

To explain why I have written this guide, I need to put things in context first.

I am a solicitor who specialises exclusively in [SEN](#) law and have done so for nearly two decades now. I also run the website: www.SpecialEducationalNeeds.co.uk, which I set up soon after going into sole practice in 2005. The website was another way of my trying to help people, as I realised that I could not help everyone personally. To my surprise, the website became very popular. Whilst originally focused on parents, I soon found myself receiving compliments from others using it, which included teachers/[SENCOs](#), LA officers, healthcare professionals, people from education/disability organisations, etc.

Although it is no secret, many people do not realise that I am myself physically disabled and use a wheelchair to get around. As a result of limitations that I have faced, I have become increasingly reliant on technology over the years and always take 'accessibility' very seriously. Hence the website and now this guide, which combine both my passions for [SEN](#) and for technology.

Hopefully, I can now explain things a little better.

I realised by July 2014 that I needed to understand the new CoP quickly, so had planned to design a guide for myself that I could carry around and use to look up more detailed things when I needed to. But I then realised that other people involved with SEND would need to know similar things, but had limited time to prepare, as the CoP was only issued at the end of July 2014, after school holidays had already started.

I have always tried to help others, so I took it upon myself to write this guide, which sets out what people need to know. By making it an e-book only, it has allowed me to include a copy of the full CoP, the [C+FA](#), the [SEND Regulations](#), the [Transitional Provisions](#) and also a list of LAs (including links to their '[Local Offer](#)'). I have also linked the text throughout this guide, wherever possible, to other relevant legislation, Regulations, etc.

In this way, people can now carry everything they need around with them and always have it to hand to refer to quickly on their e-readers/tablets/phones/other mobile devices, wherever they are. They can also make their own highlights/notes/bookmarks electronically, which they can search for later. An e-book is also more accessible to more people, no matter their needs (for example, fonts can usually be increased and reading styles changed on e-readers, or it can be read out to you if you have this facility but have a visual impairment or dyslexia).

I have tried to make sure that this guide is written so that everyone involved in [SEN](#), whether personally or professionally, can easily understand it. I have adopted a 'less is more' mentality when writing it and have tried to think ahead and anticipate how people will want/need to use it.

Whilst it focuses on the main things that the reader needs to know or do, they can easily find more detailed information by clicking on the links to go to the original source or to other helpful guidance/definitions.

This guide is for, amongst other people:

- Parents/carers, young people and their advocates
- Teachers/[SENCOs](#) (both in mainstream, [special schools](#) or colleges)
- LA officers (both dealing with 'education' or 'care')
- Healthcare professionals (e.g. therapists, psychologists, doctors)
- Those involved with Complaints/Appeals/Alternative Dispute Resolution.

It has been split into three parts:

- [Part 1 – The SEN Framework](#)
- [Part 2 – The SEN Code of Practice](#)
- [Part 3 – Resources](#)

Part 1 is divided into three chapters: [Chapter 1 - 'About this Guide'](#); [Chapter 2 - 'A Brief History'](#); and [Chapter 3 - 'The Children & Families Act 2014'](#).

In Part 2, I look at the [Introduction](#) and all 11 chapters of the CoP individually.

Part 3 is entitled '[Resources](#)' and includes: (as Appendices) the full CoP, the [C+FA](#), the [SEND Regulations](#); the [Transitional Guidance](#) and finally a list of LAs with links to their

[‘Local Offer’](#) (I’m afraid that some of these were not ready yet so I have just done the best I can).

I have linked legislation, Regulations and Guidance referred to, to the relevant Resources appended [in Part 3](#) or available on the Internet. Although the CoP already has a [glossary](#), I have sometimes added ‘Read More’ at the end of some terms where I provide more detail on my website. I have used a number of abbreviations, which will make sense as you go along.

I have simplified each chapter of the CoP itself into three parts entitled:

- ‘What This Chapter Covers’
- ‘What This Chapter Contains’ (which includes ‘Relevant Legislation’) and
- ‘What You Need To Know’

At the end of each chapter, I have put the links relevant to that chapter from the end of the CoP.

Regarding the CoP, C+FA, SEND Regulations and Transitional Guidance in [Part 3](#), I have transposed the text from the PDF documents issued (I’m afraid that this has been a bit of a nightmare as some of their links were wrong/it was not formatted very well/it did not transpose easily - so forgive me if it does not look right sometimes).

By doing this as an e-book, it can be read easily on whatever mobile device the reader is using. By also incorporating everything the reader needs into one guide and interlinking everything, it can be read offline as well. This is better than having to print out and carry around the whole CoP.

In fact, most people don’t realise that, for example, there are reading Apps for both the PC/Mac as well as for other mobile devices, such as phones/tablets. This means that a reader can buy one copy of this guide on one device, but then also have it on their computer to make annotations on. They will then have everything available immediately on their mobile device (provided it is synced) and vice-versa. How good is that!

But don’t worry, I know that not everyone will know how to be able to use the technology in this guide to its full potential at first, so I have also produced it as a PDF document which you can then either use on screen (all the linking internally and externally still works) or you can simply print out a hard copy of it to use traditionally. And if you do print it out, it will then save you from having to print out a copy of the CoP/C+FA/SEND Regulations/Transitional Guidance themselves as this guide contains everything that you will need.

AND FINALLY...

This guide is not a substitute for reading the full CoP itself, if you are an individual using it, or if you are working for an organisation that needs to have regard to it. It is simply a ‘guide’ – no more and no less. It is just meant to try and make it easier for people to understand/work with the CoP. I hope that you find it useful, in the same way that it has been helpful to me writing it. I also hope that by writing it, I have helped more people.

In fact, somebody said to me recently, that this is the guide that the Government should have written, but didn’t!

With best wishes

Douglas

DOUGLAS SILAS

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- Adobe Reader (to read PDF files):
 - for [PC/Mac](#)
 - for [Mobile devices](#)

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@douglassilas



douglassilas



Douglas Silas



DouglasSilas

PART 2

THE SEN CODE OF PRACTICE

INTRODUCTION

*“Education is not preparation for life;
education is life itself”*

John Dewey

WHAT THIS CHAPTER COVERS

The [SEN Code of Practice](#) ('CoP') is divided into an '[Introduction](#)' and 11 separate chapters as follows:

1. [Principles](#)
2. [Impartial information, advice and support](#)
3. [Working together across education, health and care for joint outcomes](#)
4. [The Local Offer](#)
5. [Early years providers](#)
6. [Schools](#)
7. [Further education](#)
8. [Preparing for adulthood from the earliest years](#)
9. [Education, Health & Care needs assessment plans](#)
10. [Children and young people in specific circumstances](#)
11. [Resolving disagreements](#)

There are also two annexes on '[Mental Capacity](#)' and '[Improving practice and staff training in education settings](#)' as well as a '[Glossary of terms](#)' plus a section on '[References](#)' with links to documents at the end.

The opening paragraphs state as follows:

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

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

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

EXPIRY OR REVIEW DATE

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

WHAT THIS CHAPTER CONTAINS

The [Introduction](#) is then separated into 25 paragraphs under 11 sections entitled:

- [About this guidance](#)
- [Expiry or review date](#)
- [To which legislation does this guidance refer?](#)
- [Who must have regard to this guidance?](#)
- [The First-tier Tribunal \(Special Educational Needs & Disability\)](#)
- [Changes from the SEN Code of Practice \(2001\)](#)
- [Implementation](#)
- [Transitional arrangements](#)
- [Special educational needs \(SEN\)](#)
- [Disabled children and young people](#)
- [Related legislation and guidance](#)

WHAT YOU NEED TO KNOW

The main things that you need to know are as follows:

- A '[young person](#)' is said to be a person who is over [compulsory school age](#) but is under 25 (compulsory school age finishes on the last Friday in June in the academic year in which they become 16).
- The following bodies **must** have regard to the CoP (i.e. they must give consideration to it, cannot ignore it and **must** be able to demonstrate that they are fulfilling their statutory duties with regard to it). 'Should' in the Code means '**must**':
 - LAs (i.e. 'education', 'social care', 'housing', 'employment' and other services)
 - Schools (including [non-maintained special schools](#))
 - [FE colleges](#)/sixth form colleges
 - [Academies](#) (including [free schools](#), university technical colleges and studio schools)
 - [Pupil referral units](#) ('PRUs')
 - ('[Section 41](#) approved') [independent schools](#)/independent specialist providers
 - All [early years providers](#)
 - The NHS Commissioning Board
 - Clinical commissioning groups ('CCGs')
 - [NHS Trusts/Foundation Trusts](#)
 - Local Health Boards
 - [Youth Offending Teams](#) (and relevant youth custodial establishments)
 - The [First-tier Tribunal](#) (SEND)
- The guidance must be kept under review and updated if necessary.
- The CoP refers to [Part 3](#) of the [Children and Families Act 2014](#) but also its associated Regulations as follows:
 - [The Special Educational Needs & Disability Regulations 2014](#)

- [The Special Educational Needs \(Personal Budgets\) Regulations 2014](#)
- The [Order setting out transitional arrangements](#)
- The main changes from the [SEN Code of Practice 2001](#) are:
 - The new CoP 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, their parents and young people in decision making at both individual and strategic levels
 - There is a stronger focus on high aspirations and improving outcomes for children and young people
 - Guidance on joint-planning and commissioning services to ensure close cooperation between 'education', 'health' and 'care'
 - Guidance on publishing a '[Local Offer](#)' of support for children and young people with [SEN](#) and/or disabilities
 - New guidance for education and training settings and taking a '[graduated approach](#)' to identifying and supporting pupils and young people with [SEN](#) (which replaces 'School Action' and 'School Action Plus')
 - Children and young people with more complex needs will have a more coordinated assessment process and [EHC plans](#) will replace Statements and Learning Difficulty Assessments ('LDAs') from 0-25
 - A greater focus on support to enable those with [SEN](#) to succeed in education and/or make a successful transition to adulthood
 - Information is provided on relevant duties under the [Equality Act 2010](#) and
 - Information is provided on the relevant provisions of the [Mental Capacity Act 2005](#)
- The new [CoP](#) (subject to any transitional arrangements) and the majority of [Part 3](#) of the [Children and Families Act 2014](#) will be implemented from 1 September 2014 and from that date (subject to any transitional arrangements) the following guidance will cease to have effect:
 - The [SEN Code of Practice \(2001\)](#)
 - [Inclusive Schooling \(2001\)](#)
 - [Section 13A LDA Statutory Guidance \(2013\)](#)
- There will be transitional guidance.
- 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](#)

(importantly it also states that '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’ and ‘the expectation is that young people who are currently receiving support as a result of a LDA and remaining in further education or training during the transition period, who request an EHC plan, will be issued with one’).

- The provisions in the [Children and Families Act 2014](#) and [Chapter 10](#) of the CoP relating to ‘Youth Custody’ will not come into force until April 2015.
- ‘SEN’ is described as where a child or young person has a ‘learning difficulty’ or ‘disability’ which calls for [special educational provision](#) to be made for him or her and a child of [compulsory school age](#) or [young person](#) has a ‘learning difficulty’ or ‘disability’ if he or she has:
 - A significantly greater difficulty learning than the majority of others of the same age or
 - 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/post-16 institutions
- For children aged two or more, [SEP](#) is education or training that is ‘*additional to*’ or ‘*different from*’ that made generally for other children or young people of the same age by [mainstream schools](#), post-16 institutions, maintained nursery schools or relevant [early years providers](#). Where a child is under two, [SEP](#) means educational provision of any kind.
- Many children and young people with [SEN](#) may also have a disability under the [Equality Act 2010](#) (which it defines). These children and young people may not necessarily have [SEN](#), but there is a significant overlap and they may be covered by the [SEN](#) definition.
- The [Equality Act 2010](#) sets out the legal obligations that schools, [early years providers](#), post-16 institutions, LAs and others have towards disabled children and young people:
 - They **must not** directly or indirectly discriminate against, harass or victimise disabled children and young people.
 - They **must** make reasonable adjustments, including the provision of auxiliary aids and services, to ensure that disabled children and young people are not at a substantial disadvantage compared with their peers. This duty is anticipatory – it requires thought to be given in advance to what disabled children and young people might require and what adjustments might need to be made to prevent that disadvantage.
- Public bodies (including FE institutions, LAs, [maintained schools](#), maintained nursery schools, [academies](#) and [free schools](#) are covered by the public sector equality duty and when carrying out their functions **must** have regard to the need to eliminate discrimination, promote equality of opportunity and foster good relations between disabled and non-disabled children and young people. They **must** publish information to demonstrate compliance with this general duty and **must** prepare and publish objectives to achieve the core aims of the general duty. Objectives **must** be specific and measurable.

- All providers of services and the provision of education, including admissions and exclusions **must** make reasonable adjustments to procedures, criteria, practices and provide auxiliary aids and services. Most providers **must** also make reasonable adjustments by making physical alterations. Schools and LAs are not covered by this duty, but they **must** publish 'accessibility plans' ('accessibility strategies' for LAs) setting out how they plan to increase access for disabled pupils to the curriculum, physical environment and provide information.
- Schools and others **must** publish information about arrangements for the admission of disabled children, what steps they take to prevent less favourable treatment and access facilities.
- Parents are those people who have parental responsibility.
- Other related guidance that may be helpful are:
 - [Working Together to Safeguard Children \(2013\)](#) (or what is expected of organisations and individuals to safeguard and promote the welfare of children) (statutory guidance from the DfE)
 - [Children Act 1989 Guidance and Regulations Volume 2](#) (Care Planning and Case Review) and [Volume 3](#) (Planning Transition to Adulthood for Care Leavers) - which sets out the responsibilities of LAs towards looked after children/care leavers
 - [Equality Act 2010](#): Advice for Schools (non-statutory advice to help schools understand how the Equality Act affects them and how to fulfil their duties under the Act) (from the DfE)
 - [Reasonable Adjustments for Disabled Pupils \(2012\)](#) (technical guidance from the Equality & Human Rights Commission)
 - [Supporting Pupils at School with Medical Conditions \(2014\)](#) (statutory guidance from the DfE)
 - [The Mental Capacity Act Code of Practice: Protecting the Vulnerable \(2005\)](#)

[To find out more about what is happening in the world of SEN, please sign up to get my termly/half-termly 'SEN Updates' by email here or connect to me on one of the social media platforms below](#)



@douglassilas



douglassilas



Douglas Silas



DouglasSilas

CHAPTER 1

PRINCIPLES

*“Education is a shared commitment
between dedicated teachers,
motivated students and enthusiastic parents
with high expectations”*

Bob Beauprez

WHAT THIS CHAPTER CONTAINS

[Chapter 1](#) is divided into just one section entitled:

- [Principles underpinning this Code of Practice](#) (paragraphs [1.1-1.2](#))

It is then separated into 41 paragraphs under one heading ‘The Principles in Practice’ with 10 sections entitled:

- [Participating in decision making](#) (paragraphs [1.3-1.8](#))
- [Supporting children, young people and parents to participate in decisions about their support](#) (paragraphs [1.9-1.10](#))
- [Involving children, young people and parents in planning, commissioning and reviewing services](#) (paragraphs [1.11-1.12](#))
- [Parent Carer Forums](#) (paragraph [1.13](#))
- [Identifying children and young people’s needs](#) (paragraphs [1.14-1.19](#))
- [Greater choice and control for parents and young people over their support](#) (paragraphs [1.20-1.21](#))
- [Collaboration between education, health and social care services to provide support](#) (paragraphs [1.22-1.23](#))
- [High quality provision to meet the needs of children and young people with SEN](#) (paragraphs [1.24-1.25](#))
- [A focus on inclusive practice and removing barriers to learning](#) (paragraphs [1.26-1.38](#))
- [Supporting successful preparation for adulthood](#) (paragraphs [1.39-1.41](#))

RELEVANT LEGISLATION

Primary:

- [Section 19](#) of the [Children and Families Act 2014](#)

WHAT YOU NEED TO KNOW

The things that you need to know are as follows:

1.1

LAs in carrying out their functions under the [Children and Families Act 2014](#) in relation to children and young people with [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.

1.3

LA's **must** ensure that children, their parents and young people are involved in discussions and decisions about their individual support about local provision.

1.4

Early years providers, schools and colleges **must** ensure that young people and parents are supported in contributing to needs assessments and developing & reviewing EHC plans and **must**:

- Ensure the child's parent or the young person is fully included in the EHC needs assessment from the start, are fully aware of opportunities to offer views and information and are consulted about the content of the plan (Chapter 9).
- Consult children and young people with SEN and their parents when reviewing local SEN/care provision (Chapter 4).
- Consult them in developing and reviewing their Local Offer (Chapter 4).
- Provide children and young people with SEND and their parents with advice and information (Chapter 2).

1.5

CCGs, NHS Trusts or NHS Foundation Trusts **must** give the parents of a child under compulsory school age the chance to discuss their opinion that their child has or probably has SEND before informing the LA.

1.9

LAs **must** ensure that a child's parent or young person is provided with the information, advice and support necessary to enable them to participate in discussions and decisions about their support. LAs **must not** use the views of parents as a proxy for young people's views.

1.11

LAs **must** consult children and young people with SEND and their parents in reviewing education, training or social care provision when preparing and reviewing the Local Offer (Chapter 3 and 4).

1.14

LAs **must** identify all the children and young people who have or may have SEND in their area (see also section 22 of the Children and Families Act 2014).

1.16

CCGs/NHS Trusts/NHS Foundation Trusts **must** inform the appropriate LA if they identify a child under compulsory school age as having or probably having SEND (see also section 23 of the Children and Families Act 2014).

1.19

LAs/CCGs/other partners **must** work together in local [Health and Wellbeing Boards](#) to assess the health needs of local people, including those with SEND. This assessment is called a [Joint Strategic Needs Assessment \(JSNA\)](#) that informs the local Health and Wellbeing Strategy (HWS) which sets priorities for those commissioning services. LAs **must** keep their education, training and social care provision for children and young people with SEND under review (see [section 27](#) of the [Children and Families Act 2014](#)). [Early years providers](#), schools and post-16 institutions **must** cooperate with the LA and the LA **must** publish and keep under review the [Local Offer](#) of provision in consultation with children, their parents and young people (see also [Chapter 3](#) and [4](#) for guidance).

1.20

LAs **must** involve a child's parent and young people in the development and review of the [Local Offer](#) (see [Chapter 4](#)).

1.23

LAs **must** carry out their statutory duties under the [Children and Families Act 2014](#) with a view to making sure that services work together to promote children and young people's wellbeing and improve the quality of [SEP](#) (see also [section 25](#) of the [Children and Families Act 2014](#)). LAs **must** work with one another to assess local needs and LAs and health bodies **must** have arrangements in place to plan and commission education, health and social care services jointly for children and young people with SEND (see also [section 26](#) of the [Children and Families Act 2014](#) and [Chapter 3](#)).

1.24

Schools and colleges must use their best endeavours to ensure that high quality teaching that is differentiated and personalised will meet the individual needs of the majority of children and young people and is made for those who need it. [SEP](#) is underpinned by high quality teaching and should not be compromised by anything less (see [section 21](#) of the [Children and Families Act 2014](#)).

1.27

Where a child or young person has [SEN](#) but does not have an [EHC plan](#) they **must** be educated in a mainstream setting except in specific circumstances (as set out at [1.29](#) which includes where they are admitted to a [special school](#) or post-16 institution as part of an EHC needs assessment with agreement from the child's parent or the young person and the LA, [special school](#) or post-16 institution and anyone providing advice for the assessment; where they are in an emergency placement; where they are in a hospital school where it is a special academy or [free school](#)). Also, the [School Admissions Code of Practice](#) requires children and young people with [SEN](#) to be treated fairly and admissions authorities **must** consider applications from parents of children with [SEN](#) but without an [EHC plan](#) as part of the normal admissions process; **must not** refuse to admit a child because they do not feel able to cater for their needs; and **must not** refuse to admit a child where they have [SEN](#) but do not have an [EHC plan](#).

REFERENCES

- Contact a Family: www.cafamily.org.uk/parentcarerparticipation
- National Network of Parent Carer Forums: www.nnpcof.org.uk
- School Admissions Code of Practice: <http://tinyurl.com/SACode2012>
- United Nations Convention on Rights of Persons with Disabilities: <http://tinyurl.com/UNCRCtext>
- United Nations Convention on the Rights of the Child: <http://tinyurl.com/UNCRCtext>

[To find out more about what is happening in the world of SEN, please sign up to get my termly/half-termly 'SEN Updates' by email here or connect to me on one of the social media platforms below](#)



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