

Factsheet #14: Support for pupils with Medical Conditions

Although a child or young person is required to have special educational needs in order to obtain an EHC needs assessment and EHC plan and access support under Part 3 of the Children and Families Act, section 100 of the Act (which falls under Part 5) places a duty on maintained schools and academies to make arrangements to support pupils with medical conditions. This duty comes into force on 1 September 2014.

The government published statutory guidance in April 2014 on “Supporting pupils at school with medical conditions” and all schools are required to have arrangements in place to support pupils with medical conditions by 1 September 2014. In doing so they should ensure that such children can access and enjoy the same opportunities at school as any other child.

Individual Healthcare Plans

The statutory guidance also sets out detailed information as to what should be set out within pupils’ Individual Healthcare plans.

Individual healthcare plans will normally specify the type and level of support required to meet the medical needs of such pupils.

Governing bodies should ensure that plans are reviewed at least annually or earlier if evidence is presented that the child’s needs have changed. They should be developed with the child’s best interests in mind and ensure that the school assesses and manages risks to the child’s education, health and social wellbeing and minimises disruption.

The guidance states that staff must not give prescription medicines or undertake health care procedures without appropriate training which should be updated to reflect any individual healthcare plans.

Key duties under the Guidance

There are a number of requirements under the guidance which schools must have regard to when putting in place support for pupils with medical conditions. In particular governing bodies should ensure their arrangements:

- take into account that many of the medical conditions that require support at school will affect quality of life and may be life-threatening.
- give parents and pupils confidence in the school’s ability to provide effective support for medical conditions in school. The arrangements should show an understanding of how medical conditions impact on a child’s ability to learn, as well as increase their confidence and promote self-care. They should ensure that staff are properly trained to provide the support that pupils need.

In addition, all schools must develop a policy for supporting pupils with medical conditions that is reviewed regularly and is readily accessible to parents and school staff. The policy must include:

- the procedures to be followed whenever a school is notified that a pupil has a medical condition
- the role of individual healthcare plans, and who is responsible for their development, in supporting pupils at school with medical conditions
- arrangements for children who are competent to manage their own health needs and medicines
- the procedures to be followed for managing medicines
- what should happen in an emergency situation
- details of what is considered to be unacceptable practice (examples are provided in the guidance)
- how complaints may be made and will be handled concerning the support provided to pupils with medical conditions

The school should have a named person who has overall responsibility for policy implementation.

Duties under the Equality Act 2010

Many children and young people with medical conditions will be disabled and will benefit from having the 'protected characteristic' of disability under the Equality Act 2010. This means that they have a right not to be discriminated against and can enforce a legal duty to make reasonable adjustments on a wide range of bodies, including schools and other providers of education.

This duty is not limited to schools and extends to all educational bodies that a child or young person might attend who are required to make adjustments to their policies and their premises and to provide auxiliary aids and services to avoid young people with disabilities being placed at a substantial disadvantage.

The duty requires those subject to it to anticipate the likely needs of disabled learners and take steps that are reasonable to meet those needs – with the cost of those reasonable steps to be met by the body concerned.

A failure to make a reasonable adjustment amounts to unlawful discrimination and can be challenged in a court or Tribunal.

The reasonable adjustments duties require action in the following three areas:

- where a policy (described in the Equality Act 2010 as a 'provision, criterion or practice') puts a disabled person at a substantial disadvantage, the duty is to take such steps as it is reasonable to have to take to avoid the disadvantage.
- where a physical feature puts a disabled person at a substantial disadvantage, the duty is to take such steps as it is reasonable to have to take to avoid the disadvantage.
- where a disabled person would, but for the provision of an auxiliary aid, be put at a substantial disadvantage, the duty is to take such steps as it is reasonable to have to take to provide the auxiliary aid.

This means that the education provider must undertake an assessment of the young person's needs and what detriment is being caused to them by the relevant policy or physical feature or the failure to provide the relevant aid.

In deciding whether an adjustment is reasonable, the educational body can take into account the cost of the adjustment sought, the organisation's resources and size and the availability of financial support.

Other duties under the Equality Act 2010 include a prohibition on direct discrimination (refusing to provide a service because the person is disabled) and on treating a person less favourably because of a reason connected with their disability without justification (described as 'discrimination arising from disability').

The Role of the Designated Medical / Clinical Officer

The Code of Practice at paragraph 3.45 states that a Designated Medical Officer (DMO) should be appointed to support the CCG in meeting its statutory responsibilities for children and young people with SEN and disabilities.

The role of the DMO is to:

- act as a point of contact for local authorities, schools and colleges when notifying parents and local authorities about children and young people they believe have, or may have, SEN or a disability, and when seeking advice on SEN or disabilities;
- act as point of contact for local authorities, schools and colleges seeking health advice;
- support schools with their duties to pupils under Supporting Pupils with Medical Conditions guidance
- ensuring that assessments, planning and health support is carried out within CCGs. The DMO will not routinely carry out the assessments themselves but ensure they are done.

The person in this role should have an appropriate level of clinical expertise and links with other professionals to enable them to exercise their duties in relation to children and young adults with EHC plans from the age of 0 to 25 in a wide range of educational institutions.