

Factsheet #3: Duties on Schools

The Children and Families Act 2014 sets out specific duties on schools in relation to identifying and supporting all children with special educational needs whether or not they have an Education, Health and Care Plan.

This factsheet aims to provide an overview of the key duties which apply to schools which are set out in the Act and the Special Educational Needs and Disability Regulations 2014. They are as follows:

- **Co-operation and Assistance** - Section 29 of the Act places specific duties on governing bodies to co-operate with each responsible local authority, and each responsible local authority must co-operate with their partners, in the exercise of their functions.
- **Children with SEN in maintained nurseries and mainstream schools:** Section 35 of the Act provides that those concerned with making special educational provision for the child must secure that the child engages in the activities of the school together with children who do not have special educational needs. This duty applies only in so far as is reasonably practicable and is compatible with:
 - the child receiving the special educational provision called for by his or her special educational needs – for example, they may require 1:1 or small group work which takes them away from other children for a specific period;
 - the provision of efficient education for the children with whom he or she will be educated (this exception is to be narrowly interpreted and should not be used as a general ‘get out clause’), and
 - the efficient use of resources
- **Using best endeavours to secure special educational provision:** Section 66 of the Act imposes duties on schools and other institutions to use their best endeavours to secure that the special educational provision called for by the pupil’s or student’s special educational needs is made. This requires schools and other institutions to do everything possible to make sure that pupils and students have their educational needs met – but is not an absolute duty to do so in all circumstances.
- **SEN co-ordinators:** Section 67 of the Act requires all mainstream schools and maintained nursery schools to designate a member of staff at the school (to be known as the “SEN co-ordinator”) as having responsibility for co-ordinating the provision for pupils with special educational needs.
- **Informing parents and young people:** where a child or young person is receiving special educational needs provision at maintained school, a maintained nursery school, an Academy school, an alternative provision Academy or a pupil referral unit and there is no EHC plan in place, Section 68 of the Act requires the school to inform the child’s parent or the young person that special educational provision is being made for the child or young person.
- **SEN information report:** Section 69 requires the governing bodies of maintained schools and maintained nursery schools and the proprietors of Academy schools to prepare a report containing SEN information. This 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 moving between phases of education and in preparing for adulthood. As young people prepare for adulthood

outcomes should reflect their ambitions, which could include higher education, employment, independent living and participation in society

- the approach to teaching children and young people with SEN
 - how adaptations are made to the curriculum and the learning environment of children and young people with SEN
 - the expertise and training of staff to support children and young people with SEN, including how specialist expertise will be secured
 - evaluating the effectiveness of the provision made for children and young people with SEN
 - how children and young people with SEN are enabled to engage in activities available with children and young people in the school who do not have SEN
 - support for improving emotional and social development. This should include extra pastoral support arrangements for listening to the views of children and young people with SEN and measures to prevent bullying
 - how the school involves other bodies, including health and social care bodies, local authority support services and voluntary sector organisations, in meeting children and young people's SEN and supporting their families
 - arrangements for handling complaints from parents of children with SEN about the provision made at the school.
- **Equality and inclusion:** paragraph 6.8 of the SEND Code of Practice says that schools should regularly review and evaluate the breadth and impact of the support they offer or can access. Schools must co-operate with the local authority in reviewing the provision that is available locally and in developing the Local Offer. Schools should also collaborate with other local education providers to explore how different needs can be met most effectively. They must have due regard to general duties to promote disability equality.
 - **Careers guidance for children and young people** – paragraph 6.13 of the Code of Practice states that maintained schools and pupil referral units must ensure that pupils from Year 8 until Year 13 are provided with independent careers guidance. Academies are also subject to this duty through their funding agreements.
 - **Identifying SEN in schools** – Paragraph 6.14 to 6.35 of the Code of Practice states all schools should have a clear approach to identifying and responding to SEN and should seek to identify pupils making less than expected progress given their age and individual circumstances, focusing on four broad areas of need:
 - Communication and interaction
 - Cognition and learning
 - Social, emotional and mental health difficulties
 - Sensory and/or physical needs

Where, despite the school having taken relevant and purposeful action to identify, assess and meet the SEN of the child or young person, the child or young person has not made expected progress, the school or parents should consider requesting an Education, Health and Care needs assessment. To inform its decision the local authority will expect to see evidence of the action taken by the school as part of SEN support.

- **Involving parents and pupils in planning and reviewing progress** – Paragraphs 6.64 to 6.71 of the Code of Practice states that Schools must provide an annual report for parents on their child's progress. A record of the outcomes, action and support agreed through the discussion should be kept and shared with all the appropriate school staff. This record should be given to the pupil's parents. The school's management information system should be updated as appropriate.

Unless stated otherwise, these duties apply to:

- mainstream schools;
- maintained nursery schools;
- 16 to 19 Academies;
- institutions within the further education sector;

- pupil referral units;
- alternative provision Academies.

There are separate factsheets available on SEN Support and the duties to support pupils with medical conditions and duties to disabled pupils under the Equality Act 2010.

Further information regarding these duties can be found in Chapter 6 of the SEN Code of Practice.