

Foreword

From the Parliamentary Under-Secretary of State for Health and the Parliamentary Under-Secretary of State for Children and Families

Our vision for children with special educational needs and disabilities is the same as for all children and young people – that they achieve well in their early years, at school and in college, and lead happy and fulfilled lives.

This new Special Educational Needs and Disability Code of Practice will play a vital role in underpinning the major reform programme.

For children and young people this means that their experiences will be of a system which is less confrontational and more efficient. Their special educational needs and disabilities will be picked up at the earliest point with support routinely put in place quickly, and their parents will know what services they can reasonably expect to be provided. Children and young people and their parents or carers will be fully involved in decisions about their support and what they want to achieve. Importantly, the aspirations for children and young people will be raised through an increased focus on life outcomes, including employment and greater independence.

Local authorities and their local health partners have been working together to prepare for the new arrangements, to jointly plan and commission services for children and young people who have special educational needs or are disabled. Those with more complex needs will have an integrated assessment and where appropriate a single Education, Health and Care plan for their support.

The Code of Practice is the product of extensive consultation, and draws on the experience of pathfinder local authorities which have been piloting new approaches with local communities. We have listened to a wide range of individuals and groups and the result is a Code which will help everyone working with children and young people with special educational needs and disability to secure for them the outcomes from education, health and social care which will make the biggest difference to their lives.

A black ink signature, appearing to be 'Dan Poulter', written in a cursive style.

DR DAN POULTER
Parliamentary Under-Secretary of State
for Health

A blue ink signature, appearing to be 'Edward Timpson', written in a cursive style.

EDWARD TIMPSON
Parliamentary Under-Secretary of State
for Children and Families

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' 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

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

To which legislation does this guidance refer?

- iii. This guidance refers to Part 3 of the Children and Families Act 2014 and associated regulations. The regulations associated with the Children and Families Act 2014 are:
 - The Special Educational Needs and Disability Regulations 2014
 - The Special Educational Needs (Personal Budgets) Regulations 2014
 - The Special Educational Needs and Disability (Detained Persons) Regulations 2015
 - The Children and Families Act 2014 (Transitional and Saving Provisions)(No 2) Order 2014

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 Code of Practice

Implementation

- vii. From 1 September 2014 the majority of Part 3 of the Children and Families Act 2014, its associated regulations and this Code of Practice will be in force, subject to any transitional arrangements.
- viii. From 1 September 2014 all the organisations listed in paragraph iv. **must** have regard to this Code of Practice.

- 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 institutions, local authorities 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 not** discriminate for a reason arising in consequence of a child or young person's disability
 - 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 further education institutions, local authorities, 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. Public bodies also have specific duties under the public sector equality duty and **must** publish information to demonstrate their 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. The general duty also applies to bodies that are not public bodies but that carry out public functions. Such bodies include providers of relevant early years education, non-maintained special schools, independent specialist providers and others making provision that is funded from the public purse.
- xx. The duties cover discrimination in the provision of services and the provision of education, including admissions and exclusions. All providers **must** make reasonable adjustments to procedures, criteria and practices and by the provision of auxiliary aids and services. Most providers **must** also make reasonable adjustments by making physical alterations. Schools and local authority education functions are not covered by this last duty, but they **must** publish accessibility plans (and local authorities, accessibility strategies) setting out how they plan to increase access for disabled pupils to the curriculum, the physical environment and to information.
- xxi. School governing bodies and proprietors **must** also publish information about the arrangements for the admission of disabled children, the steps taken to prevent disabled children being treated less favourably than others, the facilities provided to assist access of disabled children, and their accessibility plans.
- xxii. Where a child or young person is covered by SEN and disability legislation, reasonable adjustments and access arrangements should be considered as part of SEN planning and review. Where school governors are publishing information about

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 about local provision.
- 1.4 Early years providers, schools and colleges should also take steps to ensure that young people and parents are actively supported in contributing to needs assessments, developing and reviewing Education, Health and Care (EHC) plans.

Specifically, local authorities **must**

- ensure the child's parents or the young person are fully included in the EHC needs assessment process from the start, are fully aware of their opportunities to offer views and information, and are consulted about the content of the plan (Chapter 9)
 - consult children with SEN or disabilities, and their parents and young people with SEN or disabilities when reviewing local SEN and social care provision (Chapter 4)
 - consult them in developing and reviewing their Local Offer (Chapter 4)
 - make arrangements for providing children with SEN or disabilities, and their parents, and young people with SEN or disabilities with advice and information about matters relating to SEN and disability (Chapter 2)
- 1.5 Clinical Commissioning Groups (CCGs), NHS Trusts or NHS Foundation Trusts who are of the opinion that a child under compulsory school age has or probably has SEN or a disability **must** give the child's parents the opportunity to discuss their opinion with them before informing the local authority (see paragraph 1.16).
 - 1.6 Children have a right to receive and impart information, to express an opinion and to have that opinion taken into account in any matters affecting them from the early years. Their views should be given due weight according to their age, maturity and capability (Articles 12 and 13 of the United Nations Convention on the Rights of the Child).

- 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 and how to involve them. Chapter 8 sets out how some decision-making rights transfer from parents to young people at this stage and how families will continue to play a critical role in supporting a young person with SEN. Most young people will continue to want, or need, their parents and other family members to remain involved in discussions and decisions about their future. Some young people, and possibly some parents, will not have the mental capacity to make certain decisions or express their views. Provision is made in the Children and Families Act (Section 80) to deal with this and Annex 1 to this Code provides further details.

Supporting children, young people and parents to participate in decisions about their support

- 1.9 Local authorities **must** ensure that children, young people and parents are provided with the information, advice and support necessary to enable them to participate in discussions and decisions about their support. This should include information on their rights and entitlements in accessible formats and time to prepare for discussions and meetings. From Year 9 onwards, particularly for those with Education, Health and Care plans, local authorities, schools, colleges and other agencies will be involved in the planning for their transition to adult life, the future and how to prepare for it, including their health, where they will live, their relationships, control of their finances, how they will participate in the community and achieve greater independence. Further details are given in Chapter 8. Local authorities should help children and their families prepare for the change in status under SEN law that occurs once the child reaches the end of compulsory school age.

- 1.10 Local authorities should consider whether some young people may require support in expressing their views, including whether they may need support from an advocate (who could be a family member or a professional). Local authorities **must not** use the views of parents as a proxy for young people's views. Young people will have their own perspective and local authorities should have arrangements in place to engage with them directly.

Involving children, young people and parents in planning, commissioning and reviewing services

- 1.11 Local authorities **must** consult children with SEN or disabilities, their parents, and young people with SEN or disabilities in reviewing educational and training provision and social care provision and in preparing and reviewing the Local Offer. It is important that they participate effectively in decisions about support available to them in their local area. Chapters 3 and 4 provide guidance on these duties.
- 1.12 Effective participation should lead to a better fit between families' needs and the services provided, higher satisfaction with services, reduced costs (as long-term benefits emerge) and better value for money. Local authorities should work with children, young people and parents to establish the aims of their participation, mark progress and build trust. They should make use of existing organisations and forums which represent the views of parents – and those which represent the views of children and young people directly – and where these do not exist, local authorities should consider establishing them. Effective participation happens when:
- it is recognised, valued, planned and resourced (for example, through appropriate remuneration and training)
 - it is evident at all stages in the planning, delivery and monitoring of services
 - there are clearly described roles for children, young people and parents
 - there are strong feedback mechanisms to ensure that children, young people and parents understand the impact their participation is making

Parent Carer Forums

- 1.13 Parent Carer Forums are representative local groups of parents and carers of children and young people with disabilities who work alongside local authorities, education, health and other service providers to ensure the services they plan, commission, deliver and monitor meet the needs of children and families. Parent Carer Forums have been established in most local areas and local authorities are actively encouraged to work with them. More information about Parent Carer Forums is available from the websites of Contact a Family and the National Network of

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** carry out their functions with a view to identifying all the children and young people in their area who have or may have SEN or have or may have a disability (Section 22 of the Children and Families Act 2014).
- 1.15 Local authorities may gather information on children and young people with SEN or disabilities in a number of ways. Anyone can bring a child or young person who they believe has or probably has SEN or a disability to the attention of a local authority (Section 24 of the Children and Families Act 2014) and parents, early years providers, schools and colleges have an important role in doing so.
- 1.16 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, SEN or a disability (Section 23 of the Children and Families Act 2014).
- 1.17 A child's parents, young people, schools and colleges have specific rights to request a needs assessment for an EHC plan and children and their parents and young people should feel able to tell their school or college if they believe they have or may have SEN. 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.
- 1.18 Chapters 5, 6 and 7 provide guidance for early years providers, schools and colleges on identifying children and young people's SEN and making provision to meet those needs as early as possible.
- 1.19 Local authorities, CCGs and other partners **must** work together in local Health and Wellbeing Boards to assess the health needs of local people, including those with SEN or who are disabled. This assessment, the Joint Strategic Needs Assessment, informs a local Health and Wellbeing Strategy which sets priorities for those who

commission services. Local authorities **must** keep their educational and training provision and social care provision for children and young people with SEN or disabilities under review (Section 27 of the Children and Families Act 2014). In carrying out this duty, the local authority will gather information from early years providers, schools and post-16 institutions. In most cases, those institutions **must**, in turn, co-operate with the local authority. The local authority **must** publish and keep under review its Local Offer of provision in consultation with children, their parents and young people. Guidance on these matters is given in Chapters 3 and 4.

Greater choice and control for parents and young people over their support

- 1.20 A local authority's Local Offer should reflect the services that are available as a result of strategic assessments of local needs and reviews of local education and care provision (Section 27 of the Children and Families Act 2014) and of health provision (Joint Strategic Needs Assessments and Joint Commissioning arrangements (Section 26 of the Children and Families Act 2014). Linking these assessments and reviews to the Local Offer will help to identify gaps in local provision. Local authorities **must** involve children and young people with SEN or disabilities and the parents of children with SEN or disabilities in the development and review of the Local Offer. This will help to ensure it is responsive to local families. Guidance on the Local Offer is provided in Chapter 4.
- 1.21 Parents of children who have an EHC plan and young people who have such a plan have a right to ask for a particular educational institution to be named in the plan and for a Personal Budget for their support. Guidance is given in Chapter 9.

Collaboration between education, health and social care services to provide support

- 1.22 If children and young people with SEN or disabilities are to achieve their ambitions and the best possible educational and other outcomes, including getting a job and living as independently as possible, local education, health and social care services should work together to ensure they get the right support.
- 1.23 When carrying out their statutory duties under the Children and Families Act 2014, local authorities **must** do so with a view to making sure that services work together where this promotes children and young people's wellbeing or improves the quality of special educational provision (Section 25 of the Children and Families Act 2014). Local authorities **must** work with one another to assess local needs. Local authorities 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 SEN or disabilities (Section 26). Chapter 3 gives guidance on those duties.

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. Schools and colleges **must** use their best endeavours to ensure that such provision is made for those who need it. Special educational provision is underpinned by high quality teaching and is compromised by anything less.
- 1.25 Early years providers, schools and colleges should know precisely where children and young people with SEN are in their learning and development. They should:
- ensure decisions are informed by the insights of parents and those of children and young people themselves
 - have high ambitions and set stretching targets for them
 - track their progress towards these goals
 - keep under review the additional or different provision that is made for them
 - promote positive outcomes in the wider areas of personal and social development, and
 - ensure that the approaches used are based on the best possible evidence and are having the required impact on progress

Chapters 5, 6 and 7 give guidance on identifying and supporting children and young people with SEN or disabilities.

A focus on inclusive practice and removing barriers to learning

- 1.26 As part of its commitments under articles 7 and 24 of the United Nations Convention of the Rights of Persons with Disabilities, the UK Government is committed to inclusive education of disabled children and young people and the progressive removal of barriers to learning and participation in mainstream education. The Children and Families Act 2014 secures the general presumption in law of mainstream education in relation to decisions about where children and young people with SEN should be educated and the Equality Act 2010 provides protection from discrimination for disabled people.
- 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 (see below).

The School Admissions Code of Practice requires children and young people with SEN to be treated fairly. Admissions authorities:

- **must** consider applications from parents of children who have SEN but do not have an EHC plan on the basis of the school's published admissions criteria as part of normal admissions procedures
- **must not** refuse to admit a child who has SEN but does not have an EHC plan because they do not feel able to cater for those needs
- **must not** refuse to admit a child on the grounds that they do not have an EHC plan

1.28 The Equality Act 2010 prohibits schools from discriminating against disabled children and young people in respect of admissions for a reason related to their disability. Further education (FE) colleges manage their own admissions policies and are also prohibited from discriminating against disabled young people in respect of admissions. Students will need to meet the entry requirements for courses as set out by the college, but should not be refused access to opportunities based on whether or not they have SEN.

1.29 Children and young people without an EHC plan can be placed in special schools and special post-16 institutions only in the following exceptional circumstances:

- where they are admitted to a special school or special post-16 institution to be assessed for an EHC plan with their agreement (in the case of a young person) or the agreement of their parent (in the case of a child), the local authority, the head teacher or principal of the special school or special post-16 institution and anyone providing advice for the assessment
- where they are admitted to a special school or special post-16 institution following a change in their circumstances with their agreement (in the case of a young person) or the agreement of their parent (in the case of a child), the local authority and the head teacher or principal of the special school or special post-16 institution. Where an emergency placement of this kind is made the local authority should immediately initiate an EHC needs assessment or re-assessment
- where they are in hospital and admitted to a special school which is established in a hospital, or
- where they are admitted to a special academy (including a special free school) whose academy arrangements allow it to admit children or young people with SEN who do not have an EHC plan

- 1.30 The last of these provisions enables the Secretary of State to approve academy arrangements for individual special academies or special free schools that are innovative and increase access to specialist provision for children and young people without EHC plans. Those academies the Secretary of State authorises will make clear through their Funding Agreement that a child or young person with SEN but no EHC plan should be placed there only at the request of their parents or at their own request and with the support of professional advice such as a report from an educational psychologist. A special academy or special free school with these arrangements will be able to admit only those children who have a type of SEN for which they are designated. They will have adopted fair practices and arrangements that are in accordance with the Schools Admission Code for the admission of children without an EHC plan.
- 1.31 The leaders of early years settings, schools and colleges should establish and maintain a culture of high expectations that expects those working with children and young people with SEN or disabilities to include them in all the opportunities available to other children and young people so they can achieve well.
- 1.32 There is a significant overlap between children and young people with SEN and those with disabilities and many such children and young people are covered by both SEN and equality legislation.
- 1.33 The Equality Act 2010 and Part 3 of the Children and Families Act 2014 interact in a number of important ways. They share a common focus on removing barriers to learning. In the Children and Families Act 2014 duties for planning, commissioning and reviewing provision, the Local Offer and the duties requiring different agencies to work together apply to all children and young people with SEN or disabilities. In carrying out the duties in the Children and Families Act 2014, local authorities and others with responsibilities under that Act, are covered by the Equality Act.
- 1.34 In practical situations in everyday settings, the best early years settings, schools and colleges do what is necessary to enable children and young people to develop, learn, participate and achieve the best possible outcomes irrespective of whether that is through reasonable adjustments for a disabled child or young person or special educational provision for a child or young person with SEN.
- 1.35 Much of the guidance in this Code of Practice focuses on the individual duties owed to children and young people with SEN. When early years settings, schools and colleges, local authorities and others plan and review special educational provision and make decisions about children and young people with SEN (chapters 5 to 7) and 9) they should consider, at the same time, the reasonable adjustments and access arrangements required for the same child or young person under the Equality Act.

- 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 to make choices for themselves from an early age and support them in making friends and staying safe and healthy. As children grow older, and from Year 9 in school at the latest, preparing for adult life should be an explicit element of conversations with children and their families as the young person moves into and through post-16 education. For children and young people in or beyond Year 9 with

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.