



Department
for Education

Implementing a new 0 to 25 special needs system: Further Education

**Advice for further education colleges,
sixth form colleges, 16-19 academies and
special post-16 institutions**

April 2014

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Summary

About this departmental advice

This advice is non-statutory, and has been produced to help strategic leaders in the further education sector understand forthcoming changes to the special educational needs and disabilities (SEND) system and new responsibilities arising from those changes.

Expiry or review date

This advice is relevant in the period leading up to implementation of the new SEND system in September 2014.

Who is this advice for?

- Further education colleges
- Sixth form colleges and 16-19 academies
- Specialist post-16 institutions approved under section 41 of the Children and Families Act¹

This advice may also be of interest to independent post-16 education providers in understanding and considering what they need to do to prepare for the reforms.

Key points

This guidance sets out:

- a summary of changes to the statutory framework for SEN, including new duties for FE providers
- an outline timeline for implementation;
- key questions principals and other senior leaders of colleges and special post-16 institutions may find useful in thinking about implementing the reforms;
- resources and support that can be accessed to support the cultural and system change these reforms require.

¹ “special post-16 institutions” will be able to join a published list of approved providers. Approved providers will be subject to the same duties as FE and sixth form colleges.

Timeline for Implementation

Spring 2014	<ul style="list-style-type: none"> • <u>13 March</u> Children and Families Bill received Royal Assent • New 0-25 SEND Code of Practice published • SEN regulations and transitional arrangements published
From September 2014	<ul style="list-style-type: none"> • Legislation comes into force and new 0-25 SEND Code of Practice takes effect. • Local offers published following consultation • Joint commissioning starts • New assessment and planning starts (for new entrants) • Personal budgets offered as part of education, health and care (EHC) plan • Mediation arrangements in place and young people aged 16-25 in further education can appeal to the SEN tribunal. • Local authorities publish plans for EHC plan transfers; young people with existing statements and LDAs begin to transfer to the new system • No new assessments for Learning Difficulty Assessments (LDAs) or statements will be carried out from 1st September.
September 2014 – September 2016	<ul style="list-style-type: none"> • Young people with Learning Difficulty Assessments (LDAs) transfer to the new system.
September 2014 – April 2018	<ul style="list-style-type: none"> • Children and young people with statements transfer to the new system.

What colleges should do to prepare for implementation in September 2014

- Identify an overall lead within your institution to oversee implementation of the reforms.
- Build links with local authorities, the commissioners and funders of high needs students.
- Raise awareness amongst colleagues and ensure all staff become familiar with new 0-25 Special Educational Needs and Disability (SEND) Code of Practice.
- Ensure your students and their parents have information about the new system of SEN support.
- Consider workforce development needs, in particular the need for person-centred approaches to planning and the new focus on securing positive destinations
- Consider how new flexibilities created by the introduction of 16-19 study programmes (or up to 25 for young people with EHC plans) and reformed funding arrangements can be used to tailor packages for young people with SEN - including supported internships, Traineeships and Apprenticeships.
- Develop partnerships with schools to support planning for transition into further education, including involvement in annual reviews where appropriate and supporting schools to communicate to parents how the new system of SEN support operates in FE.
- Develop partnerships with local authorities to support planning for transition to adult life, including involvement in annual reviews where appropriate.
- Contribute to the local plans for the implementation of the reforms, including the development of the local offer.
- Work with local authorities on the Education Health and Care (EHC) assessment and planning process

What colleges need to know

1. The Children and Families Act received Royal Assent on 13 March 2014. Part 3 of the Act sets a new legislative framework for children and young people (aged 0-25) with special educational needs and disabilities, which will be implemented from 1 September 2014.
2. The sections below are designed to give colleges more information about the reforms and to help them prepare for the changes

New statutory duties for the further education sector

3. There are some important new statutory duties in the Children and Families Act, for institutions in the further education sector. From September 2014:
 - **General FE and sixth form colleges must use their best endeavours to secure the special educational provision that the young person needs.** This duty applies to all young people with SEN, with and without an Education Health and Care (EHC) plans up to age 25. Its purpose is to ensure that mainstream providers give the right support to their students with SEN. It does not apply to special post-16 institutions or special schools, as their principal purpose is to provide for this group.
 - **General FE and sixth form colleges, and approved special post-16 institutions will have a duty to admit students if the institution is named in an EHC plan.** The decision to name an institution is following consultation and subject to some conditions, more detail of which is set out in the assessment and planning section below.
 - **General FE and sixth form colleges, and approved special post-16 institutions will be under a duty to co-operate with the local authority to identify and meet the needs of young people with SEN.** This is a reciprocal duty, meaning that the local authority must also cooperate with colleges to ensure young people's needs are met.
 - **General FE and sixth form colleges, and approved special post-16 institutions must 'have regard to' the new SEND Code of Practice.**
4. The Act also grants some additional new rights and protections for young people aged 16 to 25 with special educational needs and disabilities:

- Local authorities must take account of young people's views, wishes and feelings, the importance of young people participating in decision making and being supported to the best possible outcomes.
- Young people (or their parents, family or a professional working with them, including college staff) have the right to request an assessment of their education, health and care needs up to age 25.
- Local authorities must consult young people and all post-16 institutions in their area when reviewing their special educational provision.
- Local authorities must provide young people with advice and information about matters relating to SEN.
- Local authorities must provide colleges a copy of an EHC plan for a young person, where they are named as the educational provider in their plan.
- young people aged 16-25 will have the right to appeal to the First-Tier SEN Tribunal if they disagree with a local authority's decision on assessments, the content of an EHC plan that relates to their special educational needs and provision (including the educational institution or type of institution), reviews and reassessments, and ceasing a plan. All young people will also have the right to mediation.

Local Offer

5. From September 2014, each local authority must publish a local offer. This offer must set out provision for children and young people with SEN or disabilities in their area. Amongst other things, the local offer must include:

- the education and training provision available in FE and sixth form colleges, special post-16 institutions and other post-16 providers; and
- services available to support young people in preparing for adulthood and independent living, including:
 - finding employment
 - obtaining accommodation
 - participating in society

6. The Act places a duty on local authorities to involve FE and sixth form colleges, special post-16 institutions and other post-16 providers in developing their local offer of services.

Changes in assessment and planning

7. FE and sixth form colleges, and special post-16 institutions will be able to request an assessment of education, health and care needs by bringing a young person to the attention of their local authority.

8. Learning Difficulty Assessments (LDAs) (and statements in schools) will be replaced by education, health and care (EHC) assessments and plans. EHC plans can be put in place from birth, and up to 25 where it is agreed that a young person requires more time to complete their education, and has not yet met the outcomes agreed as part of their plan (see section below for more detail about 19-25 year olds). In the case of a young person who reaches their 25th birthday before their course has ended, the EHC plan can be maintained until the end of the academic year in which they turn 25.

9. Young people will be able to express a preference for a particular FE college, sixth form college or approved special post-16 institution. The local authority will be under a conditional duty² to name that provider in the EHC plan, and the institution named will be under a duty to admit a young person. The local authority will consult the provider, and send a copy of the EHC plan, before the placement is made.

10. Young people will have right to appeal decisions of the local authority to the SEN First-tier Tribunal.

11. FE and sixth form colleges and approved special post-16 institutions will need to engage with the local authority and carry out annual reviews for students with EHC plans. Annual reviews will need to focus on next steps for students and the support they need to prepare for adulthood including securing paid employment, independent living, and participating in society.

Young people aged 19 to 25

12. There is no entitlement to continued support or an expectation that those with an EHC plan at age 18 must be allowed to remain in education or training from age 19 to 25.

² The local authority will have to agree to the request unless the institution is unsuitable for age, ability, aptitude or special educational need of the young person; or incompatible with efficient use of resources or education of others.

13. The local authority, in collaboration with the young person, their parent and relevant professionals should consider whether there is clear evidence that special educational provision provided through an EHC plan will continue to enable young people to progress towards agreed outcomes that will prepare them for adulthood.

14. The new SEN Code of Practice will make clear that a local authority should continue to maintain an EHC plan for a 19-25 year old where all of the following conditions apply:

- The education and training outcomes set out in their plan have not yet been achieved
- The young person wants to remain in education or training so they can complete or consolidate their learning, including accessing provision that will help them prepare for adulthood
- Special educational provision is still needed
- Remaining in education or training would enable the young person to progress and achieve those outcomes

15. Support should continue to be reviewed at least annually. When reviewing an EHC plan or determining whether support should end for young people aged over 18, the local authority must have regard to whether the educational or training outcomes specified in the EHC plan have been achieved.

16. Young people have the right to request an assessment of their SEN at any point prior to their 25th birthday. Where a young person is aged 19 or over, the local authority must consider whether the young person requires additional time – in comparison to the majority of others of the same age who do not have SEN – to complete his or her education or training.

Young people taking on key responsibilities

17. After compulsory school age (the end of the academic year in which they turn 16) the Children and Families Act 2014 applies directly to young people, rather than to their parents. Parents, or other family members, can continue to support young people in making decisions, or act on their behalf, provided that the young person is happy for them to do so, and it is likely that parents will remain closely involved in the great majority of cases. Where a young person is under 18, the involvement of parents is particularly important and colleges should continue to involve them in the vast majority of decisions.

18. The right of young people to make a decision is subject to their capacity to do so as set out in the Mental Capacity Act 2005. The underlying principle of the Act is to ensure that those who lack capacity are empowered to make as many decisions for themselves as possible and that any decision made or action taken on their behalf is done so in their best interests. Decisions about mental capacity are made on a case by case basis, and may vary according to the nature of the decision

The new 0-25 SEND Code of practice

19. The new SEND Code of Practice provides statutory guidance for the duties introduced by the Act. FE and sixth form colleges and approved special post-16 institutions will be legally required to 'have regard to' the new code from September 2014. Principals and senior managers can view the draft code on the DfE website to help them prepare for the reforms:

<https://www.gov.uk/government/consultations/special-educational-needs-sen-code-of-practice-and-regulations>

A final version of the code will be published in Spring 2014.

High needs funding reform

20. In 2013 the Government introduced changes to school and post-16 funding, including the system for pupils and students with high needs. In line with the reforms to be implemented through the Act, pre- and post-16 arrangements are being integrated into a single 0-25 funding system.

- The new high needs funding system is intended to provide a consistent approach across a range of different types of institution and age groups.
- Schools, academies, FE colleges and other specialist providers will share a single funding system, the aim of which is to help to ease the transition of pupils and students to the next phase of their education.
- As commissioners of services for the most vulnerable pupils and students, local authorities should use funding effectively to provide the right support by joining up education, health and social care in the right place at the right time.
- Costs will become more transparent, and commissioning decisions will focus on what provision will best secure the desired outcomes for individual children and young people.

21. Further information on funding is available on the Education Funding Agency's website [here](#).

22. The funding reforms are intended to support both the work local authorities are leading to identify and publish a local offer, and the development of personal budgets that parents or students will be able to hold, as well as their right to express a preference for provision that best meets their or their children's needs.

Key questions for principals and senior managers

Principals and senior managers will want to consider the following questions in preparing for implementation of the SEN reforms from September 2014.

- Who is responsible for delivering change in my institution?
- How will I hold them accountable?
- How can I empower my team to work in partnership with young people and to focus on their outcomes?
- What new relationships do I need to develop? (e.g. with local authorities, schools, health and social care)
- Who in my team will have a role in supporting young people with SEN?
- How will I ensure my staff have all the training and support they need to implement the new system and offer high quality provision for young people with SEN?
- How can we ensure a genuinely person centred approach which fully involves young people and fulfils our 'best endeavours' duty (see further down under the paragraph on new duties for an explanation) for young people with SEN?
- How will I ensure that young people's feedback is being used to improve my provision?
- How will I know my institution is performing well to help young people with SEN achieve in education and employment (outcomes)?

Sources of information, advice and support

23. This section sets out the range of free resources and support materials that are currently available to further education providers as they prepare to implement the new system of SEN support. They include a range of voluntary and community sector organisations funded by the Department for Education to support implementation of the reforms.

Support for workforce development

24. To help the FE sector to develop their capacity to support students with SEN, the Government is providing funding for bursaries to attract high calibre graduates to train to be specialist teachers of students with SEN. A guide for ITT applicants is available on this page:

<http://www.et-foundation.co.uk/press-contacts/marketing-tool-kit/>

25. The Association of Centres of Excellence in Teacher Training (ACETT) is linking to and facilitating a range of FE networks where messages and information about the evolving SEN policy is shared and where the implications for practice are discussed and emerging practice is disseminated. Further information is available at:

<https://www.acett.org.uk>

26. Nasen have been funded by the Department for Education to develop the SEN Gateway, enabling education providers to access high quality information, resources and training in relation to the reforms. The Gateway will be launched in spring 2014 and will include links to the Excellence Gateway for access to FE resources. Nasen will also be running regional implementation events in June / July 2014, providing a pack of information to 0-25 education providers on best practice approaches to implementing aspects of the reforms. Further information is available at:

www.nasen.org.uk

27. The Excellence Gateway provides easy access to thousands of resources to support professional development in the FE and Skills sector:

<http://www.excellencegateway.org.uk/>

28. Achievement for All provides support and resources to education settings (including early years, schools and currently being piloted in colleges) on implementation of the SEN reforms to improve progress and outcomes for children and young people. Achievement for All also provides training and support for education settings, local authorities, Clinical Commissioning Groups, parents and carers in engaging parents and

carers in their child's learning, ensuring children and families are at the heart of decision making and learning. They offer some materials free of charge, including self-audit tools and on-line training. Further information is available at:

www.afa3as.org.uk/areweready

Pathfinders and pathfinder champions

29. Regional pathfinder champions for 2014-15 are currently being recruited. They will provide bespoke support to local authorities and their partners across the region, with a focus on practical implementation. Regional pathfinder champions will be supported and co-ordinated nationally by the pathfinder support team, Mott MacDonald.

30. Each local authority will be offered a minimum of two support days from their regional champion, but flexibility will exist within each region to develop an approach which is most appropriate for them, making best use of existing networks. For example, support days may be provided on a 1-1 basis to an individual local authority or their partners, or they may be pooled with other areas to deliver a series of themed workshops across the region. Additional support days from the regional champion can be allocated on a case by case basis, depending on the needs of the area. Further details, including the specific number of support days available, will be communicated shortly. Where colleges are interested in using pathfinder champion support, they should speak to their local authority first (because pathfinder support is brokered through the local authority).

31. Regional pathfinder champions have been drawn from the SEND pathfinder programme, which has informed the Children and Families Act at every stage. Learning from the pathfinder programme has generated a number of case studies and other resources, which are available from the pathfinder website at www.sendpathfinder.co.uk. These include a series of 'information packs' on key strands of SEND reform such as the local offer and preparation for adulthood. The packs are regularly updated, with the latest versions being published in March 2014.

Regional SEND reform hubs

32. As well as offering direct support, regional pathfinder champions will provide local authorities with information and access to support from regional "SEND reform hubs". These hubs will bring together a group of voluntary and community sector delivery partners, funded by the Department for Education. Each hub will have a regional support plan (available from the end of April 2014) setting out in one place the free support available to help local areas prepare for implementation. This will take the form of events and expert advice through 1-1 conversations and online. The partners in each SEND reform hub are:

- Preparing for Adulthood
- The National Network of Parent Carer Forums
- Early support
- The National Parent Partnership Network
- Contact a Family
- TCT - The Communications Trust
- AET - The Autism Education Trust
- DSPLD - The Dyslexia SPLD Trust

33. Further expert support through the SEND reform hubs will be available from the National Sensory Impairment Partnership, the Short Breaks Network and 69 additional grant-funded organisations. More information on their work can be found here: <http://www.councilfordisabledchildren.org.uk/getting-involved/sen-and-disability-reform-support-organisations>

National pathfinder champions

34. National pathfinder champions for 2014-15 are currently being recruited. They will be offering additional specialist support and advice on key elements of the reforms – such as assessment and planning, personal budgets or joint commissioning - based on the experience and expertise developed during their time as pathfinder areas. Regional champions will be able to draw on national leads that are based within their own regions or elsewhere, to help meet local needs.

Strategic reform partner (Council for Disabled Children)

35. The Council for Disabled Children is working as a Strategic Reform Partner to the Department for Education. It disseminates key messages about the reforms as they are developed, and co-ordinate delivery partner and specialist support available to regional SEND reform hubs – more information is at: <http://www.councilfordisabledchildren.org.uk/what-we-do/policy/sen-and-disability-reforms/the-send-local-area-pathfinders>

Preparing for Adulthood (PfA)

36. Preparing for Adulthood (PfA) is a partnership between NDTI and CDC, specifically focusing on the SEN reforms as they apply to young people in the 14-25 age group, their families and all the agencies supporting them; this includes joint working with post-16 providers and local authorities to implement the reforms and promote better life chances. PfA have free resources and materials on line including information on study programmes and supported internships.

Further information is available at: <http://www.preparingforadulthood.org.uk/>

Involving children, young people and parents

37. There is a strong emphasis in the new draft legislation and the draft code on engaging children, young people and parents. The Council for Disabled Children supports a national group of disabled young people called EPIC, who are advising the Department for Education on the reforms:

<http://www.councilfordisabledchildren.org.uk/epic>

Association of Colleges (AoC)

38. The 341 Further Education, Sixth Form and special post-16 institutions play a significant role in the education of young people and adults with learning difficulties and/or disabilities. AoC represents the interests of the colleges and their students. As well as a national office, AoC has a regional structure and that many of the [AoC Regional offices](#) run LLDD Networks.

Association of National Specialist Colleges - Natspec

39. Natspec supports over 70 member colleges making provision for young people with more complex needs. It provides information for member colleges about the impact of the reforms; more general information for young people and parents about specialist colleges: <http://www.natspec.org.uk/>



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