

## 13. Children with Additional Learning Needs

This chapter deals with the responsibilities of schools for providing education for pupils with additional learning needs (ALN). Governing bodies have important responsibilities towards children with ALN.

### What are Additional Learning Needs?

1. The term ALN is much wider in scope than the term 'special educational needs' in order to recognise the diverse and complex needs of learners and to reflect a more holistic approach to meeting the needs of individual learners.
2. ALN include persons who, for whatever reason, require additional learning support because they are struggling to learn in comparison with their peers.
3. School pupils may therefore require additional learning support if they have difficulty in learning because for example:
  - they have special educational needs;
  - they have a disability;
  - they have medical needs;
  - they have gaps in their knowledge or skills due to prolonged absences from the education system e.g. school refusers, school phobics or young offenders;
  - they have difficult family circumstances e.g. due to bereavement;
  - they access education inconsistently e.g. Gypsy and traveller pupils; or
  - their first language is not English or Welsh e.g. asylum seekers/refugees/children of migrant workers;
  - they are looked after by the local authority e.g. a child whose schooling was disrupted before being taken into care or has had frequent changes of school since taken into care;
  - they are underachieving due to care responsibilities e.g. young carers; or
  - they are pregnant or a young parent;
  - they are being bullied by their peers or other persons, due to their sexual orientation e.g. lesbian, gay, bisexual and transgender pupils; or
  - they are pupils who perform or who have employment.

4. Pupils defined as more able and talented are not considered to have ALN unless they have SEN or they have for whatever reason, greater difficulty learning a particular subject or skill in comparison with the majority of persons of the same age who are not able and talented (refer to above examples).

5. Estyn guidance to Registered Inspectors identifies some of the above groups of learners as potentially vulnerable (i.e. 'at risk' socially and educationally and needing attention to their social inclusion and well-being) as distinct from learners with additional support needs. The guidance makes it clear that not all learners within vulnerable groups are socially excluded or failing educationally, but that they are more at risk than other learners.

6. Some learners may belong to both groups e.g. learners with special educational needs who are looked after by the local authority. There are associated statutory requirements for some, but not all of these groups. Further information is provided in Section 2 of the circular Inclusion and Pupil Support.

### **Special Educational Needs**

7. The term 'Special Educational Needs' is a sub category of ALN and continues to be used for those learners who have a learning difficulty which calls for special educational provision to be made for them.

8. Under the Education Act 1996 (section 312) and the SEN Code of Practice for Wales (2002), a child has a learning difficulty if:

- (a) he/she has a significantly greater difficulty in learning than the majority of children of his/her age; or
- (b) he/she has a disability which either prevents or hinders him/her from making use of educational facilities of a kind generally provided for children of his/her age in schools within the area of the LA; or
- (c) he/she is under compulsory school age and is, or would be if special educational provision were not made for him/her, likely to fall within the definition at (a) or (b) above.

This section will refer specifically to those categories above that are subject to a statutory duty. For all of the other groups, reference should be made to the non-statutory guidance as set out in Inclusion and Pupil Support Circular 47/2006 and any subsequent policy guidance published by the WAG in respect of these learner groups.

9. The education of children with SEN has never been a matter just for special schools. The needs of most pupils with SEN will be met in ordinary schools. One of the main principles behind SEN policy since the report of the Warnock Committee in 1978 is that children with SEN should attend mainstream schools where appropriate. The Education Act 1996 sets the framework for this. Under this the National Assembly issued in 2002 the

Special Educational Code of Practice for Wales on identifying and assessing SEN. The Code sets out detailed guidance on all aspects of providing for SEN in ordinary and special schools. All schools, LAs and other providers must take account of the Code. Governing bodies also have important responsibilities towards children with special needs, whether or not they have a statement. These responsibilities are summarised in this chapter. In addition the Special Educational Needs and Disability Act 2001 strengthened the right to a mainstream education for pupils with SEN.

### **Definition of SEN**

10. The term 'Special Educational Needs' continues to be used to identify those with learning difficulties ranging from mild to severe and complex needs and those who have specific learning difficulties. Legally a child is defined as having SEN if he or she has a learning difficulty which needs special provision to be made for him or her. The children who need special education are not only ones with obvious learning difficulties, such as those who are physically disabled, visually or hearing impaired but learning difficulties that are less apparent, such as developmentally delayed and emotionally vulnerable children. It is estimated that up to 20% of school children may need special educational help at some stage in their school careers.

11. Special education arrangements can be made in many different ways. It can mean extra help for a child being taught in an ordinary class; or it can involve teaching the child separately in a special resourced unit attached to an ordinary school, or in a special school. In a few cases the needs of the child may be very complex or severe and require the LA to make a statutory assessment based on specialist advice.

### **Responsibility of the LA**

12. The LA retains overall responsibility for SEN provision and is responsible for formally assessing children with SEN in their area who may need a statement. A statutory assessment may result in the LA making a statement of special educational needs for a child. A child can be referred to the LA for assessment by the child's parents or the school may ask for an assessment for a child whom they think may need a statutory assessment. The LA has six weeks from referral to consider whether a statutory assessment is required.

### **Statement of SEN**

13. The statement is a document that identifies all the pupil's SEN and the arrangements needed to meet those needs, either in an ordinary or special school. The parents must be involved in the assessment process, and are given a copy of the statement of SEN. The LA must review each statement annually. As part of the review process, the LA must keep reviewing what they provide for teaching children with SEN. LAs have a general duty to educate a child in a mainstream school, as long as this is consistent with the parents' wishes and the child receives the appropriate special educational provision.

The child's inclusion should also be compatible with the efficient education of other children.

The statement has six parts:

Part 1	Personal details including the child's name and the name and address of parents.
Part 2	Details of the child's special educational needs in terms of his or her learning difficulties.
Part 3	Details of the special educational provision that should be made, including the long-term objectives to be achieved, and any arrangements for setting short-term targets and monitoring progress towards those targets.
Part 4	The type and name of the school where the special education needs will be met, or the arrangements for education, other than in school.
Part 5	Details of all relevant non-educational needs, as agreed between the health services, social services or other agencies and the LA.
Part 6	How the non-educational provision required to meet the needs set out in Part 5 will be met, including the objectives of the provision and arrangements for monitoring progress in meeting these objectives.

### **Appeals**

14. The Special Educational Needs Tribunal for Wales considers appeals against decisions made by the LA if agreement is not reached with parents.

### **Responsibility of the Governing Body**

15. The governing body should, with the head teacher, decide the school's general policy and approach to meeting children's special educational needs for those with statements and those without. They must set up appropriate staffing and funding arrangements and oversee the school's work. The governing body may also appoint a committee to monitor the school's work for children with special educational needs.

16. Governing bodies have legal duties under the 1996 Act to:

- make every effort to see that the necessary special arrangements are made for any pupil who has special educational needs;

- make sure that the 'responsible person' makes all staff who are likely to teach the pupil aware of those needs. The 'responsible person' is generally the head teacher, but may be the chair of the governing body or a governor appointed by the governing body to take that responsibility. If the 'responsible person' is the head teacher, it may be helpful for one other governor to have an interest in special needs;
- make sure that the teachers are aware of the importance of identifying pupils who have special educational needs and of providing appropriate teaching;
- consult the LA and the governing bodies of other schools when it seems necessary to co-ordinate special educational teaching in the area;
- make arrangements to allow pupils with special needs to join in the everyday activities of the school as far as is practical;
- report each year to parents on their policy for pupils with special educational needs; and
- take account of the Code of Practice when carrying out their duties towards all pupils with special educational needs.

17. Governing bodies must publish information about their special needs policies. These policies must be made freely available to parents.

18. The governing body must admit a pupil whose statement of SEN names their school. Before naming a school in a statement the LA must consult the governing body of that school.

19. The parents of children with statements of SEN have the right to state a preference for a particular maintained school for their child. The LA must meet the parents' preference as long as the school is suitable for the child, the other children at the school are educated effectively, and resources are used efficiently.

### **Teachers with Responsibility for Special Educational Needs**

20. The Code says that each school should have a named teacher who is responsible for:

- the day-to-day running of the school SEN policy;
- working with and advising fellow teachers;
- co-ordinating the teaching provided for children with SEN;
- maintaining and overseeing the records on all pupils with SEN;
- keeping in touch with parents of children with SEN;
- contributing to the in-service training of staff; and

- working with external agencies including the educational psychology service and other support agencies, medical and social services and voluntary bodies. This is the role of the SEN co-ordinator.

21. In a small school, one person acts as SEN co-ordinator, possibly the head teacher or deputy. In larger schools, there may be a SEN co-ordinating or learning support team. The time and attention which the SEN co-ordinator is able to devote to his or her responsibilities will depend upon the circumstances of particular schools. Governing bodies and head teachers must think carefully about the SEN co-ordinator's timetable in the light of the Code of Practice and the resources available to the school.

22. All initial teacher training courses cover meeting the needs of children with SEN and the WAG has published national standards for new teachers which expect all newly qualified teachers (NQTs) to be familiar with the Code of Practice, to be able to identify pupils who have special needs and to know where to get help to provide these pupils with the support they need. In-service training is available, covering many aspects of special education, and governing bodies may wish to encourage teachers to take such training.

### **National Curriculum**

23. The national curriculum is an entitlement for all pupils, irrespective of social background, culture, race, gender and differences in ability and disabilities.

24. The revised curriculum from September 2008 sets out expectations for learning and attainment for the benefit of pupils, parents, teachers, governors, employers and the public, and establishes national standards for the performance of all pupils in the subjects that it includes.

It aims to:

- focus on the learner;
- ensure that appropriate skills development is woven throughout the curriculum;
- focus on continuity and progression 3-19;
- offer reduced subject content with an increased focus on skill;
- be flexible;
- be relevant to 21<sup>st</sup> century; and
- support Government policy.

25. The text "Including all learners" appears at the beginning of each National Curriculum Subject Order and Framework and indicates that schools may use content from earlier phases/key stages within the curriculum to enable all learners to access relevant skills, knowledge and understanding at

an appropriate level. Schools should use the needs of learners as a starting point for planning and adapt the programmes of study accordingly. Sufficient flexibility exists to meet the needs of learners without the need for disapplication. In exceptional cases individual learners may be disapplied (from certain subjects or possibly more widely on a temporary basis for new arrivals etc). Group/large scale disapplications should not be used.

26. Where it is not possible to cover the content of all the programmes of study for each key stage, the statutory requirement to provide a broad, balanced curriculum can be met by selecting appropriate topics/themes from the curriculum framework as contexts for learning. For more able and talented learners working at higher levels, greater challenge can be incorporated by using material in ways that extend breadth and depth of study and opportunities for independent learning. The level of demand may be increased through the development and application of thinking, communication, ICT and number skills across the curriculum.

For all learners, schools should choose materials that will:

- provide a meaningful, relevant and motivating curriculum; and
- meet the specific needs of learners and further their all round development.

27. In addition to the National Curriculum Subject Orders, the revised frameworks for personal and social education (PSE) and for developing thinking, communication, number and information, communication and technology (ICT) may be given greater emphasis across the curriculum to meet each learner's priority needs

28. Overall, the curriculum for every learner should aim to provide real understanding and relevant life skills not just 'coverage' of subject content. An effective curriculum is not a series of 'one off' learning experiences. It must be planned with the needs of the learner in mind to ensure that individual priorities and key concepts are revisited in different contexts to ensure learning, transfer and embedding of relevant skills and understanding.

29. Schools must provide a broad, balanced curriculum which includes the national curriculum and religious education (RE) and they should provide a clear explanation for the decisions made regarding curricular emphases in the light of the learners' needs and the requirements of the equalities legislation. The resulting rationale should be documented in whole curriculum or subject policy statements.

### **Assessing Achievement**

30. To ensure that the revised curriculum and assessment frameworks are learner centered, they have assessment for learning principles embedded within them so that teachers monitor their pupils' progress as a normal part of their teaching. By law, schools must assess pupils' attainment at key points in their compulsory education. These key points are when pupils have

completed the programmes of study for 2 and 3, usually at the ages of 7, 11 and 14. This process is known as statutory assessment and consists of teacher assessment and at the end of key stage 2 can be supported by optional assessment materials.

31. At the end of Key Stage 4, pupils generally take public examinations, for example GCSEs. While there are a range of access arrangements available to support learners with disabilities, GCSE examinations will not meet the needs of all learners. Schools should seek appropriate accreditation in the form of Entry Level Certificates and opportunities to accredit wider learning.

32. For each national curriculum subject, there is a programme of study which sets out the subject knowledge, skills and understanding that pupils are expected to develop in each key stage. The programmes of study also contain level descriptions to support teacher assessment – level 1-8 and “exceptional performance”. In the revised Curriculum Orders, there are now three national curriculum outcomes for each subject which describe performance of learners working below national curriculum level 1. For pupils working at the earliest levels of development, the Routes for Learning Materials provide a more appropriate means of assessment.

## **Finance**

33. Pupils with SEN may require extra help. For pupils who require extra help but do not have a statement, costs are normally met from the school's delegated budget. The LA should take account, in setting school budgets, that some schools will have more pupils with SEN than other schools. It should indicate what part of the school's budget is assumed to be for SEN, although the governing body may choose to spend more or less than this amount on meeting special needs. The governing body should be clear about the LA's policy on providing any extra funding for the extra teaching and support of pupils with statements, and pupils who do not have statements but who need support from outside the school.

## **Disability Discrimination**

34. The definition of disability used in the Disability Discrimination Act 1995 is wide and could include a significant proportion of, although not all, children with SEN

35. The Special Educational Needs and Disability Act 2001 amended the Disability Discrimination Act 1995 to include education in schools. The new duties on LAs and schools came into force on 1 September 2002. The amendments placed a duty on schools not to discriminate against disabled pupils or prospective pupils on the grounds of disability. They also placed a duty on LAs and schools to plan to increase access to education for disabled pupils over time (see Chapter 9, Equal Opportunities and School Governors).

36. The Disability Rights Commission, now part of the Equality and Human Rights Commission (EHRC), produced the guidance *Code of Practice for Schools*, explaining their duties under Part 4 of the Disability Discrimination Act 1995. Copies may be obtained from the EHRC on 08457 622 633 or via the website at [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

### **Pupils with Medical Needs**

37. The WAG is soon to publish guidance 'Access to Education and Support for Pupils with Medical Needs'.

38. Most pupils will at some time have a medical condition often only short term that may affect their participation in school activities. Such pupils are regarded as having medical needs. Most are able to attend school regularly and with some support from the school can take part in most normal school activities.

39. In some cases, medical conditions may have a significant impact on the pupil's experiences and the way they function at school. The impact may be a direct one in that the medical condition may affect the pupil's cognitive abilities, physical abilities, behaviours or their emotional state. The primary aim of educating children and young people who have medical needs is to minimise, as far as possible, the disruption to normal schooling by continuing education as normally as the incapacity allows.

40. LAs are required to have in place arrangements to enable pupils to continue with their education. The emphasis on continuing learning applies equally to those with physical or mental health problems and pupils with life threatening or terminal illnesses, all of whom have the right to education suited to their age, ability, needs and health at the time. This applies equally to all those pupils who are unable to attend school because of medical needs, those who are physically ill or injured and those with mental health problems.

41. Particular care is needed to ensure that there is adequate provision for pupils suffering from mental illness, anxieties, depression and/or school phobia, including separation anxiety and school refusal associated with depression, which prevent them from attending school, may need support from specialist mental health services.

42. The WAG will shortly issue a good practice document for schools and LAs on promoting emotional health and well-being, including supporting children and young people with mental health needs.

43. It should be noted that whilst pupils with medical needs may have additional learning needs, a medical diagnosis does not necessarily imply that a pupil has SEN as defined within the Education Act 1996. However, it is possible that a medical condition may increase the likelihood that a pupil will develop "a significantly greater learning difficulty than the majority of children of the same age," or that their condition may amount to a disability which prevents or hinders them from making use of educational facilities generally provided for children of their age in their local area. If this is the case, then the pupil may have a SEN and may require a statutory assessment of their needs.

44. The LA will have a designated medical officer and other professionals who will need to consider in discussion with parents and the school, whether the pupil also has SEN and requires special educational provision to be made available.

45. Local Health Boards normally designate a medical officer with specific responsibility for children and young people with SEN. Children and young people with complex healthcare needs who attend special schools should have access to school nurses, who are employed by the NHS. NHS Trusts, usually through the School Health Service, may provide advice and training for school staff in providing for a pupil's medical needs.

### **Schools' and Governing Bodies' Responsibilities for Pupils with Medical Needs**

46. Individual schools develop their own policies to cover the needs of their own school. The governing body has general responsibility for all the school's policies even when it is not the employer. The governing body will generally want to take account of the views of the head teacher, staff and parents in developing a policy on assisting pupils with medical needs. In LA maintained schools the governing body should follow the policies and procedures produced by the LA as the employer.

47. The head teacher is responsible for implementing the governing body's policy in practice and for developing detailed procedures. In LA maintained schools the head teacher is responsible in line management terms to the LA. When teachers volunteer to give pupils help with their medical needs, the head teacher should normally agree to their doing this, and must ensure that teachers receive proper support and training where necessary. Day to day decisions about administering medication will normally fall to the head teacher.

48. The head teacher should make sure all parents are aware of the policy and procedures for dealing with medical needs. The school's policy should make it clear that parents should keep pupils at home when they are acutely unwell. The policy should also cover the school's approach to taking medication at school.

49. LAs have a duty to provide suitable education for children of compulsory school age who cannot attend school due to illness or injury. This education might be provided in a number of ways, for example in hospital schools, in pupil referral units, at home, or through a combination of these. Mainstream schools have a vital part to play in supporting the education of sick children on their roll.

### **More Able and Talented Children**

50. The WAG 'Quality Standards in Education for More Able and Talented Pupils' outlines the role of the LA in supporting schools to improve and further develop provision for more able and talented pupils and provides a set of ten quality standards to aid school self evaluation.

51. The document stresses a whole school strategy including an action plan to support able and talented pupils. Schools should have strategies in place in order to identify those pupils who will benefit from provision to suit their needs including attention to learning styles, teaching approaches and adding extra breadth, depth and flexibility to the curriculum. The pastoral care of individual pupils should also be considered.

52. In order to achieve, these schools should review pupil progress and ensure training of staff and appropriate resources. The pupil's and parents' views are important when discussing provision and progress.

### **Children Looked After by Local Authorities**

53. When commenced, section 20 of the Children and Young Persons Act 2008<sup>1</sup> will provide that a Designated Person for Looked After Children (LAC) must be assigned by and work closely with the governing body (or Management Committee in the case of a Pupil Referral Unit (PRU)), ensuring that there is a policy on looked after learners pertaining to the educational establishment. The Designated Person for LAC should keep the governing body/management committee up to date with the number of looked after learners in the school/college and regularly advise them of the progress made by the learners. The head teacher/principal, supported by the Designated Person for LAC, should provide an annual report on the implementation of school policies in relation to LAC and contribute to the amendment of policies where appropriate.

54. LAs need to work closely with schools in order to fulfil their duties towards looked after children and establish clear procedures for those that are in danger of exclusion. The governing body should be familiar and compliant with the LA policies and protocols regarding admission to and exclusion from school.

55. Within the 14-19 Learning Pathways any child may have a learning programme which makes use of several providers. The Designated Person for LAC should ensure that the governing body will have regular updated knowledge of any programmes where looked after learners visit more than one site. The governing body should monitor that arrangements have been put in place to ensure there is no disadvantage from having care status. For example: for transport, additional study support at the place of learning and any equipment that the 'looked after learner' may require to enable course access in full.

56. The Designated Person for LAC should have knowledge of any special need a child/young person has and should have a close working relationship with the SEN Co-ordinator.

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<sup>1</sup> Section 20 of the Children and Young Persons Act has not yet been commenced in relation to Wales, it is anticipated that this will be commenced in 2010 and this chapter will be updated accordingly.

57. Every child looked after by the LA should have a Personal Educational Plan. Any Individual Education Plan regarding a child's special educational needs provision in school should be arranged in the light of the Personal Education Plan. Governing bodies should ensure that where a looked after learner has more than one plan that these are integrated effectively and feed into the wider care plan.

## **The Law**

Children and Young Persons Act 2008  
Disability Discrimination Act 1995: Part 4  
Disability Rights Commission. Code of Practice for Schools  
Education Act 1996: Part IV  
Special Needs and Disability Act 2001

## **Welsh Assembly Guidance**

A curriculum for All Learners (2009)  
ACCAC. A Curriculum of Opportunity 2003  
Children and Young People: Rights to Action 2002  
Education of Children Looked After by Local Authorities (Circular 2/2001)  
Exclusions from schools and Pupil Referral Units (Circular 1 and IA/2004)  
Inclusion and Pupil Support (Circular 47/2006)  
Planning to Increase Access to Schools for Disabled Pupils.  
(Circular 15/2004)  
Promoting Disability Equality in Schools  
Quality Standards in Education for Children and Young People with  
Sensory Impairment (Circular 17/2006)  
Quality Standards in Education for More Able and Talented Pupils (6/2008)  
Routes for Learning (2006)  
Special Educational Needs Code of Practice for Wales (2002)  
Towards A Stable Life and Brighter Future (Standing Order 31, 7/2007)