

4. Identification, Assessment and Provision in Early Years Settings

Introduction

4:1 Early Years Development and Childcare Partnerships (EYDCP) bring together maintained, private and voluntary sector providers with LEAs, Social Services departments, health services and parent representatives in the planning and provision of services in the early years education sector.

4:2 There is a diverse range of early education providers eligible for Partnership funding including maintained mainstream and special schools, maintained nursery schools, independent schools, non-maintained special schools, local authority daycare providers such as day nurseries and family centres, other registered daycare providers such as pre-schools, playgroups and private day nurseries, local authority Portage schemes and accredited childminders working as part of an approved network.

4:3 All providers of Partnership funded early education, including those outside the maintained sector, are required to have regard to the Code of Practice. This duty is set out in section 313(2) of the Education Act 1996 (in relation to governing bodies and LEAs), and section 4(1) of the Nursery Education and Grant Maintained Schools Act 1996 and section 123 of the School Standards and Framework Act 1998 (in relation to other early education providers).

4:4 All providers delivering Partnership funded early education are expected to have a written SEN policy. Partnerships with schools and between early years settings are an excellent method of sharing best practice. Such partnership arrangements will be particularly supportive for accredited childminders who are part of an approved network who may wish to work together to develop their SEN policy.

Provision in the early years

4:5 There is a recognised relationship between high quality early years provision and effective intervention for children with special educational needs. Between the ages of 3 and 5 most children experience rapid physical, emotional, intellectual and social growth. For many children the early years setting will provide their first experience of learning within a peer group. The ACCAC publication 'Desirable Outcomes for Children's Learning Before Compulsory School Age'¹⁷ gives advice for early education practitioners on providing appropriate learning and teaching experiences of the highest quality, whilst allowing a flexible response to the particular needs of the children to enhance their pre-school learning opportunities.

4:6 Practitioners should work closely with all parents to listen to their views so as to build on children's previous experiences, knowledge, understanding and skills, and provide opportunities to develop:

- personal and social development
- language, literacy and communication skills

¹⁷ 'Desirable Outcomes for Children's Learning Before Compulsory School Age', ACCAC, 1999

- mathematical development
- knowledge and understanding of the world
- physical development
- creative development

4:7 Desirable Learning Outcomes set out what most children will have achieved in each of these areas by the time that they enter Year 1 of primary education. They represent the expected outcomes of a planned approach to early years education that integrates play and learning. Children will progress at different rates during the foundation stage. By the end of the stage, some will have achieved beyond the expectations set out in Desirable Learning Outcomes, whilst others may still be working towards these skills.

4:8 Children making slower progress may include those who are learning English as an additional language or who have particular learning difficulties. It should not be assumed that children who are making slower progress must, therefore, have special educational needs. But such children will need carefully differentiated learning opportunities to help them progress and regular and frequent careful monitoring of their progress.

Graduated response

4:9 Monitoring of individual children's progress throughout the early years is essential. Where a child appears not to be making progress either generally or in a specific aspect of learning, then it may be necessary to present different opportunities or use alternative approaches to learning. Ongoing difficulties may indicate the need for a level of help above that which is normally available for children in the particular early years setting.

4:10 Good practice can take many forms. It is for individual settings to decide the exact procedures they should adopt, and the nature and content of the special educational provision. Early years settings should adopt a graduated response so as to be able to provide specific help to individual young children. This approach recognises that there is a continuum of special educational needs and, where necessary, brings increasing specialist expertise to bear on the difficulties a child may be experiencing.

4:11 The graduated approach, as described in this Code, should be firmly based within the setting. Once practitioners have identified that a child has special educational needs, the setting should intervene through *Early Years Action*. If the intervention does not enable the child to make satisfactory progress the SENCO may need to seek advice and support from external agencies. These forms of intervention are referred to below as *Early Years Action Plus*.

The setting has a duty to inform the child's parents that special educational provision is being made for the child.

Section 317A, Education Act 1996 as amended by the SEN and Disabilities Act 2001

4:12 As settings are in day to day contact with parents they are best placed to judge how this should be done so that they can encourage parents to contribute

their knowledge and understanding of their child, and raise any concerns they may have about their child's needs and the provision that is being made for them.

4:13 The key test for action is evidence that the child's current rate of progress is inadequate. There should not be an assumption that all children will progress at the same rate. A judgement has to be made in each case as to what it is reasonable to expect that particular child to achieve. Where progress is not adequate, it will be necessary to take some additional or different action to enable the child to learn more effectively. Whatever the level of pupils' difficulties, the key test of how far their learning needs are being met is whether they are making *adequate progress*.

4:14 Adequate progress can be defined in a number of ways. It might, for instance, be progress that:

- closes the attainment gap between the child and the child's peers
- prevents the attainment gap growing wider
- is similar to that of peers starting from the same attainment base-line, but less than that of the majority of peers
- matches or betters the child's previous rate of progress
- ensures access to the full curriculum
- demonstrates an improvement in self-help, social or personal skills
- demonstrates improvements in the pupil's behaviour.

The Role of the SENCO

4:15 Early years settings, except specialist SEN provision, will need to identify a member of staff to act as the special educational needs co-ordinator (SENCO)¹⁸. In the case of accredited childminders who are part of an approved network, the SENCO role may be shared between individual childminders and the co-ordinator of the network. The SENCO should have responsibility for:

- **ensuring liaison with parents and other professionals in respect of children with special educational needs**
- **advising and supporting other practitioners in the setting**
- **ensuring that appropriate Individual Education Plans are in place**
- **ensuring that relevant background information about individual children with special educational needs is collected, recorded and updated**
- **ensuring that parents are aware of the local parent partnership services**

4:16 The SENCO should take the lead in further assessment of the child's particular strengths and weaknesses; in planning future support for the child in discussion with colleagues; and in monitoring and subsequently reviewing the

¹⁸ The reference to the SENCO should be taken to mean any practitioner who acts in the capacity of SEN coordinator; this may be the head of the setting.

action taken. The SENCO should also ensure that appropriate records are kept including a record of children at *Early Years Action* and *Early Years Action Plus* and those with statements. The practitioner usually responsible for the child should remain responsible for working with the child on a daily basis and for planning and delivering an individualised programme. Parents should always be consulted and kept informed of the action taken to help the child, and of the outcome of this action.¹⁹

Time required for SEN Co-ordination

4:17 The setting's management group and the head of the setting should give careful thought to the SENCO's time allocation in the light of the Code and in the context of the resources available to the setting. Settings may find it effective for the SENCO to be a member of the senior management team.

Individual Records

4:18 In addition to the information that all settings will record for all children, the pupil record or profile for a child with SEN should include information about the child's progress and behaviour from the early years setting itself, from the parents, and from health and social services. It might also include the child's own perception of any difficulties and how they might be addressed. It may also be necessary to record in the profile information about the child's needs in relation to the general strategies to be used to enable access to an appropriate curriculum and, in a reception class, the school day.

4:19 The information collected should reveal the different perceptions of those concerned with the child, any immediate educational concerns and an overall picture of the child's strengths and weaknesses.

Early Years Action

4:20 When an early education practitioner who works day-to-day with the child, or the SENCO, identifies a child with special educational needs, they should devise interventions that are additional to or different from those provided as part of the setting's usual curriculum offer and strategies (*Early Years Action*)

4:21 The basis for intervention through *Early Years Action* could be the practitioner's or parent's concern about a child who despite receiving appropriate early education experiences:

- makes little or no progress even when teaching approaches are particularly targeted to improve the child's identified area of weakness
- continues working at levels significantly below those expected for children of a similar age in certain areas
- presents persistent emotional and/or behavioural difficulties, which are not ameliorated by the behaviour management techniques usually employed in the setting
- has sensory or physical problems, and continues to make little or no progress despite the provision of personal aids and equipment

¹⁹ The role of the SENCO set out in this chapter applies to all settings in receipt of Partnership funding for early years education except for LEA maintained nursery schools where the SENCO role will be similar to that in the primary phase.

- has communication and/or interaction difficulties, and requires specific individual interventions in order to access learning.

4:22 If practitioners in consultation with parents conclude that a child may need further support to help them progress, staff should seek the help of the SENCO.

4:23 As an important part of the *Early Years Action* the SENCO and colleagues should collect all known information about the child and seek additional new information from the parents. In some cases outside professionals from health or social services or the education psychology service may already be involved with the child. The SENCO should build on the existing knowledge of the child; multi-agency input is often very significant for young children. The educational psychologist also has a key role in the early years of assessment and intervention and in providing support and advice to parents. Educational psychologists can help teachers and parents notice children's individual needs and help them to adjust their response accordingly. In such cases it is good practice for these professionals to liaise with the early years provider and keep them informed of the work in progress. If these professionals have not already been working with the practitioners, the SENCO should contact them if parents agree.

4:24 The SENCO should ensure that the parents are aware of the local parent partnership services. Parents must be kept fully informed about their child's needs, and are the prime source of information in many cases. The information collected can be maintained as part of the child's individual record that will also include previous observations on the child made as part of the regular assessment and recording systems within the early years setting. Settings should make sure that parents are as fully involved as possible with their child's education and should always be kept fully informed about how the setting is seeking to meet their child's needs.

4:25 Children with a learning difficulty or developmental delay, and whose parents do not have English or Welsh as a first language, do not have fluent English or Welsh, or are disabled are likely to be particularly disadvantaged if any special educational needs are not identified at the earliest possible stage. Parents may be unable to voice their own concerns because of a lack of a means of communication with the early years provider. Where such difficulties occur, LEAs should ensure that parents and relevant professionals are provided with access to signers or interpreters and translated information material, so that early concerns may be shared about the child's behaviour, health and development. Bilingual support staff, teachers of English or Welsh as an additional language may be able to help and their support should be enlisted from the outset. Parent partnership services, discussed fully in Chapter Two, will also be a source of advice and support. Without such support early identification and intervention may be delayed or ineffective.

Nature of Intervention

4:26 The SENCO and the child's teacher, in consultation with parents, should decide on the *Action* needed to help the child to progress in the light of their earlier assessment. There is sometimes an expectation that *Action* will comprise support in the form of the deployment of extra staff to enable one-to-one tuition to be given to the child. This may not be the most appropriate way of

helping the child. The *Action* should enable the very young child with special educational needs to learn and progress to the maximum possible. The key lies in effective individualised arrangements for learning and teaching. The resources might be extra adult time in devising the nature of the planned intervention and monitoring its effectiveness; the provision of different learning materials or special equipment; some individual or group support or staff development and training to introduce more effective strategies. Speedy access to LEA support services for one-off or occasional advice on strategies or equipment or for staff training may make it possible to provide effective intervention without the need for regular or ongoing input from external agencies.

Individual Education Plans

4:27 Strategies employed to enable the child to progress should be recorded within an Individual Education Plan (IEP); this should include information about the short-term targets set for the child, the teaching strategies and the provision to be put in place, when the plan is to be reviewed, and the outcome of the action taken. The IEP should only record that which is additional to or different from the differentiated curriculum plan that is in place as part of normal provision. The IEP should be crisply written and may focus on three or four key targets. IEPs should be written in Welsh, English or bilingually if appropriate. IEPs, and the ways in which they can help, should be discussed with parents and the child.

Reviewing IEPs

4:28 Ideally, IEPs should be continually kept 'under review,' and in such circumstances there cannot simply be a 'fixed term' or a formal meeting for review. However, IEPs should be reviewed regularly and at least three times a year. Reviews need not be unduly formal, but parents' views on the child's progress should be sought, and they should be consulted as part of the review process. Further advice on IEPs and on involving pupils can be found in the National Assembly Handbook of Good Practice for Children with SEN.

Early Years Action Plus

4:29 *Early Years Action Plus* is characterised by the involvement of external support services who can help early education providers with advice on new IEPs and targets, provide more specialist assessments, give advice on the use of new or specialist strategies or materials, and in some cases provide support for particular activities. The kinds of advice and support available to early years settings will vary according to local policies. LEAs have the power, under section 318(3) of the Education Act 1996 to supply goods and services to assist early years settings outside the maintained sector in supporting children eligible for Assembly funding who have special educational needs but do not have a statement.

4:30 A request for help from external services is likely to follow a decision taken by the SENCO and colleagues, in consultation with parents, at a meeting to review the child's IEP. The review should consider:

- has progress been made?
- what are the parents' views?
- is there a need for more information or advice about the child?

4:31 The basis for requesting the involvement of outside agencies could be that, despite receiving an individualised programme and/or concentrated support, the child:

- continues to make little or no progress in specific areas over a long period
- continues working at an early years curriculum substantially below that expected of children of a similar age
- has emotional or behavioural difficulties which substantially and regularly interfere with the child's own learning or that of the group, despite having an individualised behaviour management programme
- has sensory or physical needs, and requires additional equipment or regular visits for direct intervention or advice by practitioners from a specialist service
- has ongoing communication or interaction difficulties that impede the development of social relationships and cause substantial barriers to learning.

4:32 Where an early years education setting seeks the help of external support services, those services will need to see the records on the child held by the provider, in order to establish which strategies have already been employed and which targets have been set and achieved. They will usually then see the child, in their educational setting if that is appropriate and practicable, so that they can advise on new and appropriate targets for the child's IEP and accompanying strategies.

Requests for statutory assessment

4:33 For a very few children the help given by the early education provider through *Action Plus* will not be sufficiently effective to enable the child to progress satisfactorily. It will then be necessary for the provider, in consultation with the parents and any external agencies already involved, to consider whether a statutory multi-disciplinary assessment may be appropriate.

4:34 Parents, schools, including nursery schools, and early years education settings in receipt of Partnership funding can make a request to the LEA for a statutory assessment. Settings in receipt of Partnership funding to provide early years education, other than maintained nursery schools or nursery classes in maintained schools, currently only have a statutory right to request an assessment for four and five year olds for whom they provide nursery education (those children for whom the LEA must secure education under section 118 of the School Standards and Framework Act).²⁰ The LEA is then responsible for determining whether a statutory assessment is required.

4:35 Where a request for statutory assessment is made to an LEA, the child will have demonstrated significant cause for concern. The LEA will seek evidence that any strategy or programme implemented for the child in question has been continued for a reasonable period of time without success. The LEA will need clear documentation in relation to the child's special educational needs and any

20 By September 2004 LEAs' duties under section 118 will extend to three year olds. When this happens, the right to request assessments will automatically be extended to cover requests in respect of three year olds.

action taken to deal with those needs. Each LEA will have its own systems of referral. In deciding whether to make an assessment for a particular child, LEAs should, wherever possible, take into account existing information including IEPs rather than asking for further fresh written evidence.

4:36 In a very few cases where there are severe and complex needs the extent of the child's needs will be evident. In such cases requests for assessment might be made prior to any early education intervention, and there should be no need for reports from all the agencies involved with the child before the LEA can reach a decision. The LEA should act on reports from the professionals most closely involved with the child.

Child Health Services in the early years

Health Authorities and National Health Service (NHS) Trusts must inform the parents and the appropriate LEA when they form the opinion that a child under compulsory school age may have special educational needs. They must also inform the parents if they believe that a particular voluntary organisation is likely to be able to give the parents advice or assistance in connection with any special educational needs that the child may have.

See Section 332, Education Act 1996

4:37 The child health services must alert the parents and the LEA to the child's potential difficulties. A child development centre or team may provide a multi-professional view at an early stage. Early contact with child health services will be important in order to ensure that there is no physical cause for the difficulty in question (such as a hearing or visual impairment) or to secure advice on the possible cause and the effective management of difficult behaviour. Children's development and subsequent progress in school will also be affected by their general health status. All early years settings should be aware of how to obtain information and advice on health related matters, using the school health service, the child's general practitioner or a relevant member of the child development centre or team. Where a setting wants advice about a particular child they should ensure that parents have given consent to this being obtained.

4:38 Where a health authority or Trust (perhaps on the basis of information provided by a general practitioner) consider that a child might have special educational needs, they **must** inform the parents of their views and give the parents an opportunity to discuss those views with an officer of the health authority or Trust (usually a doctor who has appropriate knowledge and experience). They **must** then inform the relevant LEA.

Statutory assessment of children under compulsory school age

4:39 Chapter Seven sets out the statutory procedures for assessment. The time limits and other statutory procedures for deciding whether to carry out a multi-disciplinary assessment for a child under compulsory school age (and over two) and for making the assessment and producing a statement are the same as for children of school age.

4:40 The parents' perspective is particularly important when assessing the special educational needs of young children. LEAs should consider using explanatory leaflets or guidelines for parents to encourage their participation. Such information could also include an explanation of the support available for children within early years settings through *Early Years Action* and *Action Plus*, an explanation of parents' rights in relation to requesting a statutory assessment, and information about the circumstances in which the LEA would consider giving a child a statement. LEAs should also ensure that parents are offered the full range of parent partnership services as described in Chapter Two of this Code.

Criteria for statutory assessment of children under compulsory school age and over two

4:41 In considering statutory assessment, where the child is attending an early years setting, the LEA should ask the following questions:

- a. what difficulties have been identified by the setting? Have the practitioners provided individualised strategies through *Early Years Action* and *Early Years Action Plus* to assist the child?
- b. has outside advice been sought, regarding the child's:
 - physical health and functioning
 - communication skills
 - perceptual and motor skills
 - self-help skills
 - social skills
 - emotional and behavioural development
 - responses to learning experiences
- c. have parental views been considered?

4:42 Where a child is not attending an early years setting the LEA should try to collect as much information as is possible before deciding whether to assess.

4:43 The LEA will then assess the evidence and decide whether the child's difficulties or developmental delays are likely to be addressed only through a statement of special educational needs. Where a child's educational needs appear to be sufficiently severe or complex as to require attention for much of the child's school life, or that the evidence points to the need for specialist early intervention that cannot be provided in the current setting, then the LEA is likely to conclude that an assessment is necessary.

Statements for children under compulsory school age and over two

4:44 Where children aged between two and five have such severe and complex needs that statutory procedures are essential in order to maximise their opportunities, the statement will follow the same format as for any other

children. The contributions of non-educational service providers are likely to be of key importance.

4:45 LEAs should note that parents of children under five and over two may express a preference for a maintained school to be named in their child's statement. The LEA must name the school the parents name so long as it meets the criteria set out in Schedule 27 of the Education Act 1996. (See 8:58). A key issue is likely to be whether a school is suitable for the child's age. The parents may also make representations in favour of a non-maintained or independent school or a private or voluntary early years setting for their child. If the LEA considers such provision appropriate, it is entitled to specify this in the statement and if it does, must fund the provision. There is, however, no point in doing this for settings outside the maintained sector unless the setting agrees as the LEA cannot require an independent or voluntary setting to admit a child. The LEA should ensure that parents have full information on the range of provision available within the authority and may wish to offer parents the opportunity to visit such provision and discuss any aspect of the provision with the Named LEA Officer (see Glossary).

4:46 LEAs should consider informally reviewing a statement for a child under five at least every six months to ensure that the provision continues to be appropriate to the child's needs. Such reviews would complement the statutory duty to carry out an annual review in accordance with the Regulations but would not necessarily require the same range of documentation so long as they reflected the significant changes which can take place in the progress of a child under the age of five. If necessary the statement should be amended following a six monthly review.

Statutory assessment of children under two

If an LEA believe that a child in their area who is under the age of two may have special educational needs for which the LEA should determine the special educational provision, the LEA may make an assessment of their educational needs if the parent consents to it, and must make such an assessment if the parent requests it. Such an assessment shall be made in such a manner as the authority consider appropriate. Following such an assessment, the LEA may make and maintain a statement of the child's special educational needs in such manner, as they consider appropriate

See Section 331, Education Act 1996

4:47 When a child under two is referred to the LEA, it is probable that their parents or the child health services will have first identified any special needs. In some areas of the country Sure Start programmes will have not only identified the child but also co-ordinated access to relevant services. They will continue to offer support to the family after the child has been made known to statutory services. The child is likely to have a particular condition or to have a major health problem that has caused concern at an early stage. Assessment of children under two need not follow the statutory procedures that are applicable to assessments of children who are aged two and over.

Statements for children under two

4:48 Statements will be rare for children under two. The LEA should first consider individual programmes of support according to the child's particular needs. The procedures are not specified in legislation. But while LEAs may prefer to make voluntary agreements to cover such arrangements, they should be aware that a parental request for a statutory assessment could indicate that those arrangements are insufficient. For very young children LEAs should consider home-based programmes such as Portage, if available, or peripatetic services for children with hearing or visual impairment. Parents should be consulted about the nature of the help and support that they would like to receive; some may prefer to attend a centre or to combine home-based with centre-based support.

4:49 If a decision is made to issue a statement, usually because of the child's complex needs or to allow access to a particular service such as a home-based teaching or a developmental play programme, it should include:

- **all available information about the child, with a clear specification of the child's special educational needs**
- **a record of the views of the parents and any relevant professionals**
- **a clear account of the services being offered, including the contribution of the education service and the educational objectives to be secured and the contribution of any statutory and voluntary agencies**
- **a description of the arrangements for monitoring and review.**

4:50 LEAs should ensure that any specific educational targets are regularly reviewed and, if necessary, revised. Any action will require close collaboration with child health services and social services.

Special educational provision for children under compulsory school age

4:51 For very young children, access to a home-based learning programme, such as the Portage Home Teaching Programme, or the services of a peripatetic teacher for the hearing or visually impaired, may provide the most appropriate support or advice. In the case of a child with a behavioural difficulty, the advice of the clinical psychologist at a child development centre or an educational psychologist may enable the child to remain within an existing setting. In most instances there should be a decision that the child can attend, or continue to attend, mainstream early years provision, but with additional support or resources. For some children it may be more appropriate for them to transfer to a specialist provision. Parents should be kept informed and consulted throughout the process of such decisions.

4:52 The Early Years Development and Childcare Partnership and the LEA should have information on nursery school or class places for children with special educational needs; and about places in independent and voluntary play or opportunity groups, family centres, day nurseries or other provision for young children in that authority. Partnerships are required to include this information in the EYDCP Plan. Social services departments will be able to provide information

on provision for young children 'in need'. The provision of services for children under compulsory school age is also subject to that which is noted in 1:7-1:15 in terms of Welsh medium and bilingual provision.

4:53 If a child is on a local authority child protection register, or where there is concern about a child's welfare, the LEA and social services department should consider jointly agreeing an arrangement for identifying a child's needs and specifying and monitoring the provision to meet such needs. This should be done sensitively and with regard for the confidentiality of the information. If the child is looked after by the local authority - living with a foster parent or in a residential setting – the LEA's assessment could form part of the child's Care Plan and be regularly reviewed.

Moving to primary school

4:54 In some instances a child under five may have received considerable support without the necessity of making a statement. If it is decided that the child's needs are such that they will require a statement prior to entering primary school, careful attention should be paid to the parents' views and to information available from the full range of assessment arrangements within all the relevant agencies making provision for young children with special needs. Particular attention should be given to the child's general health and development and home circumstances to ensure that a learning difficulty is not directly related to wider family problems. Any record drawn up by an early years setting for a child with a possible special need should be passed on to the school with the parent's consent. The importance and benefits to their child of providing these records to schools should be carefully explained to parents.

4:55 The LEA should ensure that appropriate support is provided for the parents in order that they can make a full contribution to their child's progress at school. Parents should be provided with full information to enable them to express a preference for an appropriate primary school or to make representations for an independent or non-maintained special school. Detailed consideration of the kinds of provision that may be appropriate at the primary phase should be undertaken as part of the annual review process as described in Chapter Nine.