



How should **education settings help?**

Produced by Birkett Long Solicitors
birkettlong.co.uk



Contents

Education Settings help?	03
Receiving SEN support SEN Support records EHC needs assessments	
The SEN and Disability Code of Practice 2015	04
A child's right to an inclusive education	05
Making a complaint of disability discrimination	06

Education settings help?

All nurseries, schools and colleges have a legal responsibility to identify and support young people and children with SEN (special educational needs).

Receiving SEN support

Mainstream schools, colleges and nurseries can support children using their own resources and staff.

This means that children enrolled with these institutions can receive 'special educational provision' from them (known as SEN support), but they won't have an Education, Health and Care plan (an EHC plan).



SEN Support records

Educational settings should identify and record the SEN a child has, what they expect the child to achieve in their learning while at the setting, and details of the provisions and support they have provided to help the child achieve their potential. This information must be recorded in a SEN Support Record.

Schools, nurseries and colleges must support children and young people with SEN as much as possible, which means they should do everything reasonably expected of them. This is known as the 'best endeavours' duty. Nurseries must have discussions with parents about SEN decisions, while schools must meet with parents at least 3 times annually to discuss a child's SEN and their progress. For older children and those in college, decisions around SEN must involve the student as well as their parents.

EHC needs assessments

If a mainstream educational setting can't meet a child's SEN due to funding or resource issues, it should request an EHC (Education, Health and Care) needs assessment.

This is a legal process and must be carried out by a local authority. An EHC needs assessment must seek to identify a child's needs, provision they require to meet those needs, and outcomes or achievements that are expected of them. The local authority isn't able to pass responsibility or funding for the assessment onto a school or college.

Parents can also request an EHC needs assessment themselves. In some cases, this can lead to a child having an EHC plan – a legal document outlining special educational needs, support a child or young person requires and their learning goals or outcomes.



The SEN and Disability Code of Practice 2015

Otherwise referred to as 'the Code', this explains the duties of nurseries, schools and colleges in terms of how they should help children with SEN.

The Code applies to all educational settings except those that are completely independent. Educational settings must have 'regard' to the Code, and follow it or have a good reason why they haven't been able to.

They must also indicate which alternatives have replaced the Code if this is the case.



A child's right to an inclusive education

Every young person and child with SEN has the right to an inclusive education in a mainstream school, where they are surrounded by friends and peers of the same age. They should also be included in school activities in the same way as children without special educational needs.

As set out in section 35 of the Children and Families Act 2014, a school can however exclude a child with SEN from activities if the following applies:

- Their inclusion isn't 'reasonably practicable'.
- Their inclusion prevents them from receiving support that they need, or inhibits the learning of other children.
- Their inclusion isn't an efficient use of resources.

Schools have to do all they can to include children with SEN in activities. If there are obstacles (such as funding and a lack of resources) that are preventing a child with SEN from being included, better provisions should be sought through an EHC plan, or by making changes to an existing EHC plan.

If a disabled child is being excluded from activities, this could be disability discrimination under The Equality Act 2010. Including children with SEN in everyday school activities is an important part of The SEN and Disability Code of Practice 2015. Any school or training provider needs to have Accessibility Plans that explains how a learning environment is made more accessible for disabled pupils.

More information on this can be found on the *Alliance for Inclusive Education's website*.



Making a complaint of disability discrimination

Although the SEN and Disability Code of Practice 2015 doesn't apply to independent schools, all schools, independent or not, must abide by the Equality Act 2010.

If you believe your child's school, nursery or college has breached The Equality Act 2010 and hasn't complied with its legal obligations, there are steps you can take to contest this. Our team of specialists can help guide you through the process.

Ready to get the support
your child needs?
Our team is here to help.

Email Thomas

Call 02045 861281





Phone: 01206 204088

Email: enquiry@birkettlong.co.uk

Web: birkettlong.co.uk