



As you know, 1 September marked the launch of a new system for children and young people with special educational needs and disabilities.

The further education sector is vitally important in delivering our vision for this new system. I was very pleased to hear that the large majority of colleges who responded to the Association of Colleges' (AoC) recent survey felt confident in implementing the reforms. I've also been heartened by the many examples I've seen of colleges making excellent provision for young people with special educational needs and disabilities. However, there's still a lot to do. We need to make sure that all young people get the support they need to achieve their goals, including paid employment and independent living. If we get this right, it will be life-transforming for many young people.

That's why we want to do everything we can to support the FE sector in implementing the reforms so that young people with SEND get the best possible chance in life. We recently published a [short guide to the new SEND Code of Practice for FE](#) aimed at signposting professionals in the sector to the duties set out in the Code that they need to consider when undertaking their day-to-day roles. In July, the AoC invited its members to pose any questions to me about the reforms and the practical implications of implementation. Thank you to everyone who came back with some really interesting and pertinent questions. Below you can find my responses – I hope you find these helpful as you continue your efforts to fully implement the reforms.

A handwritten signature in blue ink, appearing to read 'Edward Timpson', with a period at the end. The signature is fluid and cursive.

EDWARD TIMPSON

Parliamentary Under-Secretary of State for Children and Families

Implementing the new system

Q. Can a young person request an assessment for an Education, Health and Care (EHC) plan?

A. Yes. A young person, their parents or the college can approach their local authority to request an assessment. Materials designed specifically to help young people understand the new system are available at <http://www.councilfordisabledchildren.org.uk/resources/cdcs-resources/information-for-children-and-young-people-on-send-reforms>

Q. What is the transfer process from a Learning Difficulty Assessment (LDA) to an EHC plan?

A. A young person with an LDA can ask the local authority to carry out an EHC needs assessment at any point although we would only expect this to happen if the young person was not content with the provision in their LDA. Otherwise, local authorities are responsible for arranging the timing of the transfer to EHC Plans. It is expected that young people who currently have an LDA and who need an EHC plan will all transfer to the new system by September 2016, if they are to remain in education beyond this time. Local authorities will let the young person know when they are due to switch and local Independent Supporters will be on hand to make the transfer as simple as possible. The general rule is that young people moving to further education colleges and children moving on to the next stage of their education should be transferred first. Detailed guidance on the transition from one system to another can be found [here](#).

Q. Could transferring to the new system result in a young person losing their LDA and not having it replaced with an EHC plan?

A. Local authorities have undertaken LDAs for young people either because they had a statement at school or because, in the opinion of the local authority, they are likely to need additional support as part of their further education or training and would benefit from an LDA to identify their learning needs and the provision required to meet those needs. The expectation is that young people who had LDAs and remain in further education or training during the transition period, who request and need an EHC plan will be issued with one.

Q: Colleges are aware that the new multi-agency assessment process will bring benefits but put pressure on staffing resources. Is there a financial buffer that can be accessed to cushion the change?

A: Colleges already spend a significant amount of time assessing young people to make sure that the provision is right for them, and to identify the support they need. Colleges' involvement in the EHC plan, process will draw on that information.

Whilst we recognise the reforms will mean some significant changes for the sector, we do not expect these to bring large financial burdens. In many instances, it will be a case of making the best and most efficient use of current resources. Investing the time in getting these reforms right upfront will eventually pay dividends. For example, colleges being involved with students

from an earlier age, possibly from the Year 9 review, and helping to shape EHC plans should mean smoother transitions for students and them more quickly settling on the right course, both of which should help staff when students arrives at college.

Q. It was felt by many colleges that the consultation process was rushed. Will there be opportunity to feedback post September on the impact of implementation?

A: We've been consulting and discussing the development of the Code with a wide range of people and organisations with an interest in special educational needs and disability since March 2012. The Department also undertook a thorough and robust formal consultation on a draft Code of Practice, transitional arrangements and associated draft regulations in October-December 2013. This consultation received over 700 responses from a wide range of respondents, including professionals in the FE sector, parents, local government representatives and voluntary sector organisations.

The Department held a second shorter consultation on a draft Code in April-May 2014, which was focused specifically on whether the draft Code reflected fully the amendments made during the passage of the Children and Families Act through the House of Lords and on the structure, layout and accessibility of the Code.

However, there will be opportunities for further feedback. Throughout the autumn we will be undertaking a number of activities to help us to try to better understand how the implementation of the reforms is working in practice. These include asking the AoC to run a second survey of colleges on the SEN reforms, visiting a number of colleges and holding workshops and events with representatives from the sector. In the interim, we always welcome direct feedback, which you can provide to SEN.IMPLEMENTATION@education.gsi.gov.uk

Q. Are plans in place to brief governors on their new duties?

A: Yes. Minister Hancock wrote about the reforms and outlined the four specific duties in the spring edition of his termly letter to governors. More recently, in his introductory letter sent 26th July, Minister Boles included information for governors to ensure they are aware of what colleges must and should do. A further reminder about the reforms was sent to governors in their [briefing from the AoC](#) in the last week of August. The Department for Education is also publishing an information pack for colleges in September, which will be available on the AoC website This pack includes specific information for governors as part of a slide pack for colleges to use with staff and governors. We're also working with the AoC and the Association of Sixth Form Colleges to assess what further information and support governors may need, including specific sessions on the SEND reforms at upcoming governor conferences and events.

Q. Are there plans for an ongoing programme to refresh training needs in the sector?

A: Colleges are rightly responsible for deciding what external support to seek and for setting their own priorities for the continuous professional development of their staff. Annex 2 of the Code sets out a range of organisations the Department has funded who offer support to improve the knowledge and skills of staff.

The Department has also invested in a range of activities to help prepare the sector for the reforms. In 2013/14 we have supported over 420 FE professionals to work towards achieving a L5 Diploma in Teaching Disabled Learners or an equivalent qualification. To help attract people to teach students with SEN over 2013/14 and 2014/15, the Department for Business, Innovation and Skills (BIS) is making bursaries of up to £9,000 available to support their initial teacher training. In addition, from this September, under a 'Golden Hello' programme, BIS is offering new maths teachers an additional £2,500 if they choose to undertake a specialist qualification in SEN.

In conjunction with BIS and the Education Training Foundation, we've recently set out our priorities for workforce development. This includes developing the workforce capacity to teach young people with SEN. We will continue to work together to ensure that we review and identify if any further support might be needed, and how this can be best delivered.

Q. How will consistency be assured in the engagement of local authorities with the new requirements?

A. We've set out our expectation of what local authorities and their partners should have regard to in the Code. This shows local authorities what we consider to be good practice. However, we need and want local authorities to be able to respond to often very different local needs – which is why we haven't been prescriptive in some areas, such as issuing a national template for local offers. In terms of ensuring local authorities' engagement with the reforms, we will be introducing an accountability framework for them from the 2015-16 academic year. This will enable local authorities to consider how well they are delivering the new SEN system; enable local people to hold local authorities to account for delivery; and will provide the Department with the information it needs to take action where there are serious concerns.

Choosing a college

Q. Does a young person have the right to decide and make his or her own educational choices?

A: Yes, although in most cases this will be with the help, advice and involvement of their parents, carers, teachers and other informed adults. As with all young people over compulsory school age, young people with SEN have been given rights, rather than their parents, to make their own educational choices in respect of their SEN. Families should be fully involved with a young person's support as long as the young person is happy, including acting on the young person's behalf. The involvement of parents is

particularly important when a young person is under 18. Colleges should continue to involve parents or family members in discussions about the young person's studies where that is their usual policy. Where it has been demonstrated that a particular young person lacks the mental capacity to make decisions, a representative can act on their behalf. Usually this is the young person's parent.

Q. How will disputes be best resolved when parents and young people are unable to reach agreement between themselves about suitable educational provision?

A: As set out in the Annex 1 of the Special Educational Needs and Disabilities Code of Practice, the local authority will have the responsibility to ensure that the young person's views take precedence over those of their parents unless the young person lacks sufficient mental capacity to do so.

The reforms also mean that, from Year 9 onwards, local authorities, schools, colleges and other agencies who are involved in planning for the transition to adult life should help them prepare for the change in legal status once the child is over compulsory school age. Young people will also be asked at this stage about their plans for the future, including any particular provision they may wish to attend post-16, meaning that they and their families should be well prepared when it comes to making a decision about post-16 options.

Funding

Q: How will colleges fund support for students with disabilities who enrol midway through the year when there has been no prior warning but the college is the preferred option for the young person?

A: If the student's support costs total £6,000 or less then the college would be expected to fund the student using its mainstream 16-19 funding allocation, which includes a pot of disadvantage funding. Most colleges recruit some students in-year and therefore manage their allocation of funds accordingly.

If the student's support costs are more than £6,000, then they would be defined as high needs for funding purposes. In this instance, the college would need to consider if it had any of its high needs allocation (element 2) remaining which it could use to fund the first £6,000 of additional support costs, with the remaining support costs (element 3) paid by the local authority in which the student is resident. If the college had exhausted its place funding allocation, then the local authority would pay for the full costs of the support package.

More information on this can be found in 'The high needs students additional information document' <https://www.gov.uk/government/publications/16-to-25-high-needs-funding-additional-information>

Q: What course of action should be taken when local authorities and colleges are unable to reach agreement over funding of provision for individual students?

A: An institution should contact the EFA at HNS.EFA@education.gsi.gov.uk if there is clear evidence a local authority is not entering into such an agreement, outlining the steps taken to resolve the problem. This information must include the authority having been asked to review the case and the funding commitment still not being honoured.

This would still be the case for new placements. However, we would expect the LA and institution to have fully explored all possible options. It should be noted that the EFA will not intervene to determine costs as this is not in their remit, but will facilitate further discussions and agreement.

More information on this can be found at:

<https://www.gov.uk/government/publications/16-to-25-high-needs-funding-additional-information>