

SEND Improvement Plan – the implications, what's next and what's missing?

IPSEA Policy Team



Government SEND Review

Sept 2019: SEND Review announced

- “Boost outcomes”
- “Improve value for money”

March 2022: SEND Green Paper

- Public consultation

What does the improvement plan say?

Three focus areas:

1. national standards
2. tailored lists
3. mandatory mediation

NB: remember, no legal changes.

National standards

Spring 2023: establish the National Standards Steering Group and identify experts to begin developing content

By the end of 2023: some elements of the National Standards ready for testing by Regional Expert Partnerships

By the end of 2025: publish a significant proportion of the National Standards
- focus on those that are most deliverable in the current system

At the earliest opportunity: underpin the National Standards with legislation. Before legislation, publish the National Standards in full for consultation

National standards

"National Standards will set clear and ambitious expectations for what good looks like in:

- ***identifying and***
- ***meeting needs,***

*and clarify who is **responsible** for delivering provision and from which budgets, across the 0-25 system." (para 14)*

National standards

Q: Don't we already have a national set of rules?

A: Yes!

[Children and Families Act 2014](#)

[SEND Regulations 2014](#)

- ✓ Applies to those 0-25 years
- ✓ Applies throughout England
- ✓ Applies to all LAs

National standards – identifying needs

Improvement plan	Current framework
<p>How to identify needs on national basis:</p> <ul style="list-style-type: none">- Emphasis on early identification- Process not detailed in the plan.	<p>How to identify needs on national basis:</p> <ul style="list-style-type: none">- section 20, Children and Families Act 2014 (SEN)- section 36, Children and Families Act 2014 and SEND Regulation 6 (EHC needs assessments)- Case law- SEND Code of Practice 2015- Early Years Foundation Stage Framework, if relevant <p>See:</p> <p>https://www.ipsea.org.uk/FAQs/special-educational-needs-sen</p> <p>https://www.ipsea.org.uk/what-are-special-educational-needs</p>

National standards – meeting needs

Improvement plan	Current framework
<p>How to meet needs on national basis:</p> <ul style="list-style-type: none">- Objective is to ensure that all children's additional needs are met effectively and quickly within affordable provision.	<p>How to meet needs on national basis:</p> <ul style="list-style-type: none">- section 21, Children and Families Act 2014 (SEP)- section 66, Children and Families Act 2014 ('best endeavours')- section 37, Children and Families Act 2014 and SEND Reg 12 (EHC plans)- Case law- SEND Code of Practice 2015- Early Years Foundation Stage Framework, if relevant <p>See:</p> <p>https://www.ipsea.org.uk/Pages/Category/how-should-your-nursery-school-or-college-help</p> <p>https://www.ipsea.org.uk/how-should-the-local-authority-help</p>

National standards – responsibilities

Improvement plan	Current framework
<p>Responsibility for meeting needs:</p> <ul style="list-style-type: none">- National Standards will set out who needs to make provision available for all children with SEND (para 13, Chapter 2)	<p>Responsibility for meeting needs:</p> <ul style="list-style-type: none">- section 66, Children and Families Act 2014 ('best endeavours')- section 42(2), Children and Families Act 2014 (LA responsibility)- section 42(3), Children and Families Act 2014 (health body responsibility) <p>See: https://www.ipsea.org.uk/the-best-endeavours-duty https://www.ipsea.org.uk/enforcing-your-ehc-plan</p> <p>NB – all settings and LAs not to treat disabled children and young people less favourably.</p>

Placement – what is the current position?

1. **Conditional right** to request:

- ✓ a maintained school or nursery (mainstream or special)
- ✓ an Academy (mainstream or special)
- ✓ an institution in the further education sector
- ✓ non-maintained special school
- ✓ a section 41 setting (i.e. opted into the Children and Families Act 2014).

2. Can **ask for private setting** (if you have an offer).

NB: cost is not relevant if there is only one suitable placement.

See: <https://www.ipsea.org.uk/choosing-a-schoolcollege-with-an-ehc-plan>

Placement – what might the tailored list mean?

- “A tailored list would allow local authorities to give clear choices to families and better meet the needs of children and young people, while supporting them to manage placements *in a way that ensures **financial sustainability** for the future.*” (para 66)
- “These will include mainstream, specialist and independent placements *where **appropriate.***” (para 68)
- “In the areas we test this proposal, there will be ***no change** to the existing statutory framework* and parents and young people’s existing rights will be unaffected.” (para 66)

Mediation – what is the current position?

- **Right to try mediation** whenever the LA makes a decision which you could appeal to the SEND Tribunal, including section I (placement) appeals.
- **Duty to consider mediation** if LA makes an appealable decision (except section I appeals).
- If you request mediation, **LA must:**
 - ✓ arrange it within 30 days, and
 - ✓ make sure a decision-maker attends

See: <https://www.ipsea.org.uk/mediation>

Mediation – what is in the improvement plan?

- *“Throughout the consultation, many families told us that they felt they needed to go through a lengthy, stressful and often expensive appeals process to secure support for their child.”* (para 13)
- Mediation to be used to better deal with parent concerns. (para 18)
- New approaches to mediation will be tested in pilot areas. (para 21)
- No changes to the law – don’t be confused!

Any questions?



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