

# Understanding the 0-25 SEND Code of Practice

## Inclusion Programme Bulletin: June

### Part 1: Naming educational settings in an EHC Plan

#### Requirements (Chapter 9: Paragraphs 9.78-9.94)

1. Parents of children with EHC Plans, and young people with EHC Plans have the right to request certain types of school, college or other institution to be named in their EHC Plan<sup>1</sup>. Sheffield City Council **must** agree to this request - unless certain conditions apply - and name the school or college in the EHC Plan. The Council **must** consult the institution prior to making their decision.
2. When Sheffield City Council decides to name a nursery, school or college in an EHC Plan, the named setting **must** admit the child or young person to their institution. For sixth forms and post-16 provision, this is not a duty to admit to a particular course and does not override entry criteria for individual courses. However, named institutions will still need to admit an individual and make the necessary adaptations to their curriculum offer that enables differentiated learning to take place.
3. Parents and young people have the right to appeal to the SEN Tribunal if the institution they have requested is not named in their EHC Plan.

#### Conditionality

4. Sheffield City Council **must** comply with the parent or young person's request for a specific institution unless it would be unsuitable for the individual; or it is incompatible with the efficient education of others or the efficient use of resources. These conditions are exacting and where the Council feels that one of these exceptions applies, the burden of proof is high. Being "unable to meet needs" or a setting "being full" do not, on their own, satisfy these conditions.
5. In discussion with Sheffield City Council about being named in an EHC Plan, **schools, colleges and early years settings should start from a position of assuming that the individual will be placed with them.** This enables a constructive conversation to take place about the needs, outcomes and provision that need to be detailed in the EHC Plan in order for the placement to be successful.
6. Using the Sheffield Support Grid, the Council, the locality and the setting will need to consider the full range of support that could be provided including appropriate modifications or exclusions from the national curriculum, differentiated learning opportunities, access to specialist services etc. This will allow a collective, defensible judgement to be made about whether a place would be considered "unsuitable" for the age, ability, aptitude or SEN of an individual. Schools should be prepared to support this evidence at Tribunal.

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<sup>1</sup> Types of institution covered by the legislation: maintained nursery schools; maintained schools and any form of academy or free school (mainstream or special and including sixth forms); non-maintained special schools; further education or sixth form colleges; and independent schools or independent specialist providers who have been approved by the Secretary of State for this purpose.

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7. Under the Equality Act, all institutions must anticipate, make and review reasonable adjustments to prevent disabled children and young people being put at a disadvantage. Similarly, the Children and Families Act requires Sheffield City Council and the requested institution to work together to demonstrate that there are no 'reasonable steps' that can be taken – in relation to all settings in the city taken as a whole - to prevent a place being incompatible with the efficient education of others. Examples of 'reasonable steps' are included in para 9.91 of the Code of Practice. They include developing teaching practice, creating physical spaces for individuals to work in, changing timetables etc.
8. To consider that a place represents an inefficient use of resources, Sheffield City Council and the institution would need to demonstrate that the costs of the place and any related support, adjustments or steps are not reasonable. The Council would need to be able to demonstrate that the provision set out in an EHC Plan can be effectively delivered for less cost in a different institution.

### Duty to Secure the Special Educational Provision

9. When an institution has been named in an EHC Plan, Sheffield City Council **must** secure the special educational provision specified in that Plan. Currently, the Council achieves this through:
  - SEN Notional funding allocated through the school funding formula – provides schools with resources to fund up to £6,000 of support for individual pupils in addition to their core place funding;
  - High needs funding allocated to the seven school localities;
  - High needs and place funding allocated to schools with Integrated Resource Units;
  - High needs and place funding allocated to special schools;
  - Post-16 funding formula for sixth forms and colleges – this also includes resources to fund up to £6,000 of support to individual students in addition to their core place funding; and
  - High needs funding for post-16 and early years settings.
10. In addition, Sheffield City Council also provides access to specialist services such as the Autism Team, Early Years Inclusion Service, The Rowan Outreach Service, Hearing and Visual Impaired Services, Education Psychology Service etc.