

Better Pathways project: Briefing Paper 2

Supporting families with the NRPF condition who have children with special education needs and disabilities

1. Introduction: the Better Pathways briefing series

The Better Pathways four-part briefing paper series responds to current areas of challenge arising for cross-sector frontline practitioners who are supporting individuals and families with the NRPF condition. Each briefing paper collates up-to-date information on legal definitions, policy changes, insights from academic research, shares reflections and good practice from frontline practitioners across the statutory and third sectors, and signposts to useful resources. Each briefing ends with recommendations to develop more supportive pathways to better outcomes for people with NRPF. The briefings can be used as helpful guides for frontline practitioners and as a continuous professional development tool to keep abreast of current NRPF issues from practice and research.

Key points from Briefing Paper 2:

- Assistance for children or young people who have SEN needs due to a learning difficulty or disability, or who have an EHC plan, is **not classed as a public fund for immigration purposes and therefore should be accessible to all families.**
- **Parents/carers must be recognised and respected as partners** in the support process.
- Statutory guidance regarding SEN needs to be **communicated in an accessible way** for teachers and parents/carers.
- Local support is available to parents/carers and families. All parties (e.g. schools, statutory organisations, third sector) have a **responsibility to signpost** to local support for SEN. Voluntary sector providers have a shared responsibility to signpost statutory organisations and schools to their SEN support provision.
- Key policies: ***Equality Act 2010; Section 20 of the Children & Families Act 2014;*** and the ***'Special educational needs and disability code of practice: 0 to 25 years'*** – with key points summarised in this guide.
- The question which needs to remain at the forefront of partnership work is ***'what does this child need?'***

2. Special education needs and disabilities: legal definitions

Section 20 of the *Children and Families Act 2014* defines a child or young person with special educational needs (SEN) as the following:

- if a child or young person has a learning difficulty or disability which calls for special educational provision to be made for them.
- if a child or young person of compulsory school age has a significantly greater difficulty in learning than the majority of others of the same age, or has a disability which prevents or hinders them from making use of facilities of a kind generally provided for others of the same age in mainstream schools or mainstream post-16 institutions.

Some examples of SEN from Coram Child Law Advice (2023) include:

- Emotional and Behavioural Difficulties (EBD).
- Autism.
- Attention Deficit (Hyperactivity) Disorder (ADHD/ADD).
- specific learning difficulties such as Dyslexia.
- Obsessive Compulsive Disorder (OCD).
- communication difficulties.
- medical needs such as Epilepsy and Cerebral Palsy.
- mobility difficulties.

Disability is one of the nine 'protected characteristics' in the *Equality Act 2010*. Within this legislation, a person with a disability is defined as:

- a person who has a **physical or mental impairment**, and
- the impairment has a **substantial** and **long-term** adverse effect on a person's ability to carry out **normal day-to-day** activities.

Coram Child Law Advice (2023), outlines additional information in relation to the terminology used in the definition of disability in the *Equality Act 2010* as follows:

- **'Normal day-to-day'**: 'things that people do on a regular basis, for example mobility, dressing or cleaning (physical co-ordination), and having a conversation'.
- **'Long-term'**: 'usually means the impairment should have lasted or be expected to last at least a year'.
- **'Substantial'**: 'not minor or trivial'.
- **'Physical impairment'**: 'includes sensory difficulties such as visual or hearing impairments'.
- **'Mental impairment'**: 'includes learning difficulties, autism, dyslexia, speech and language difficulties, ADHD'.

Additionally, some specified medical conditions, such as HIV, multiple sclerosis and cancer are also considered as disabilities (Coram, 2023).

3. SEN: policy context in England

Children and young people up to the age of 25

The *'Special educational needs and disability code of practice: 0 to 25 years'* contains statutory guidance for organisations that work with children and young people up to the age of 25 with special education needs and disabilities.

(i) Responsibilities of schools

Every school is required to have systems in place to identify children who are in need of support and to assess, monitor and secure appropriate support for any SEN they may have, this includes, amongst others, having a teacher who is a designated SEN-coordinator ('SENCO'), involving parents in processes of support, and ensuring children with SEN are able to participate in school activities with children without SEN (Coram, 2023).

Schools may be able to provide forms of additional support for a child who has SEN needs due to a learning difficulty or disability, such as speech therapy. However, if the needs of a child go beyond what a school can provide, schools can request an assessment for an Education, Health and Care (EHC) plan to be carried out by the Local Education Authority (LEA) (NRPF Network, 2023).

Importantly, assistance for children or young people who have SEN needs as set out above or who have an EHC plan, is not classed as a public fund for immigration purposes. This means that support can be accessed by a child regardless of their, or their parent's, immigration status, including a person who is subject to the NRPF condition (ibid). Schools are provided with additional money to provide support for children with SEN, with each child with SEN entitled to receive up to £6,000 funding from their school per year (Coram, 2023).

Additionally, in response to Central England Law Centre's (CELC) High Court victory in the BCD v Birmingham Children's Trust [2023] case, Birmingham Children's Trust has now published an updated NRPF policy that addresses a number of the findings in the judgement. This particularly concerns local authority support for children in families that are ineligible for welfare benefits because of their immigration status, and an outcome of the case includes consideration of a 10% uplift in financial support will be considered for disabled children (CELC, 2023).

(ii) Responsibilities of Local Authorities

Once a school has requested an EHC assessment, the local authority will consider the following when making a decision:

- evidence of the child or young person's academic attainment (or developmental milestones in younger children) and rate of progress.
- information about the nature, extent and context of the child or young person's SEN.
- evidence of the action already being taken by the early years provider, school or post-16 institution to meet the child or young person's SEN.
- evidence that where progress has been made, it has only been as the result of much additional intervention and support over and above that which is usually provided.
- evidence of the child or young person's physical, emotional and social development and health needs, drawing on relevant evidence from clinicians and other health professionals and what has been done to meet these by other agencies (Coram, 2023).

In summary, local authorities' responsibilities in meeting the needs of children and young people with SEN include the following:

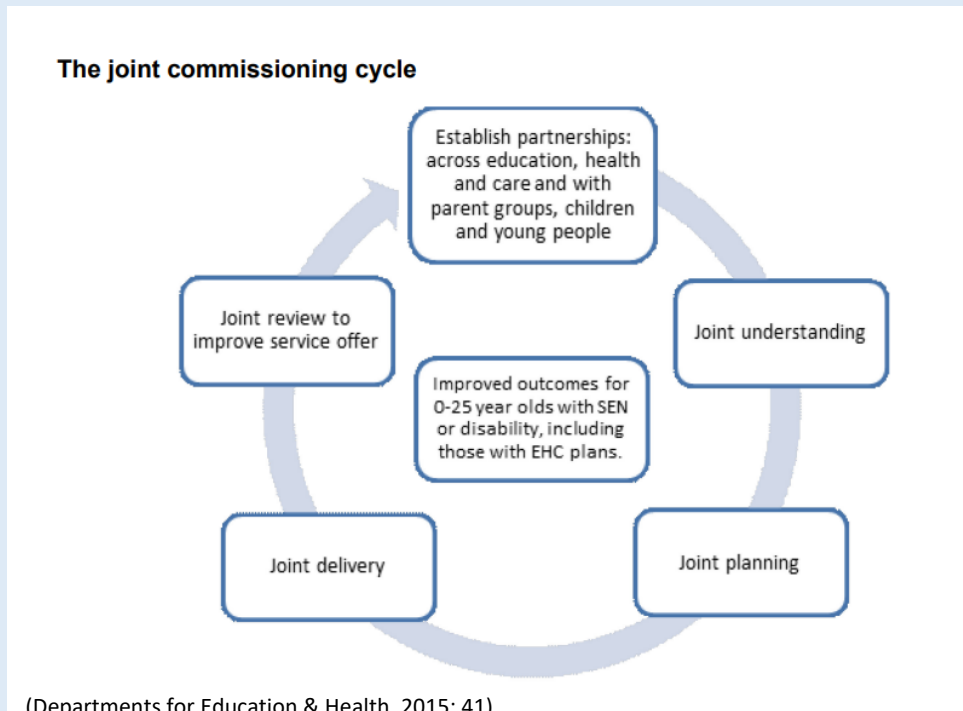
- to identify, assess and provide for children with SEN.
- to audit, plan, monitor and review SEN provision.
- to provide support through an information, support and advice service (IASS) for young people with SEN.
- to liaise with other partners whose job it is to support children with SEN (such as schools, colleges, and health bodies).
- to secure training, advice and support for staff working with SEN (Coram, 2023).

(iii) A multi-agency approach across education, health, and care

The ‘*Special educational needs and disability code of practice: 0 to 25 years*’ sets out the requirements for a multi-agency approach to support for children and young people with SEN. Importantly, parents/carers and children and young people are considered as partners in this process (Departments for Education and Health, 2015).

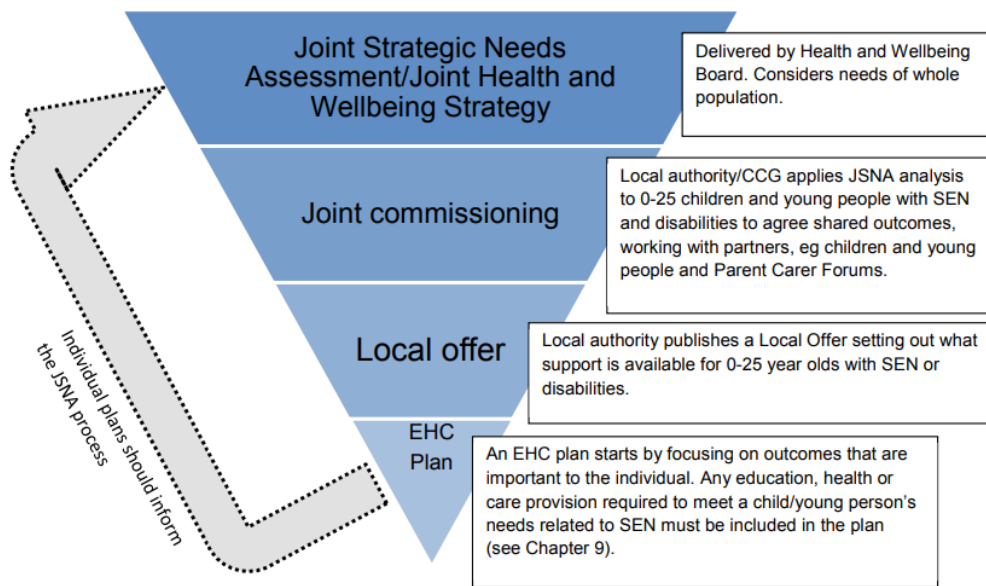
Local joint commissioning arrangements form an important part of this approach, with one of the main purposes of this process to identify the advice and information that is to be provided about education, health and care provision for those who have SEN or are disabled and to determine by whom it is to be provided (Section 3.12).

From 1 September 2014 all local authorities now have a requirement to publish the ‘Local Offer’. This is a detailed summary of the services available to support children and young people with SEN and disabilities (Coram, 2023). The outputs of the joint commissioning work must be presented publicly within the Local Offer. The following diagrams from the *Code of Practice* highlight this process of partnership working:



Joint understanding: Joint Strategic Needs Assessments

- 3.20 There is a clear relationship between population needs, what is procured for children and young people with SEN and disabilities, and individual EHC plans.



(Departments for Education & Health, 2015: 43)

4. Cross-sector collaborative working to support children with SEN and disabilities

4.1 Context

Cross-sector collaborative working practices are a key component of improved outcomes for children with SEN and disabilities (e.g. Castro-Kemp & Samuels, 2022). In their systematic literature review on this topic, Castro-Kemp and Samuels (ibid) draw attention to the important distinction between 'multi-disciplinary', 'interdisciplinary', and 'transdisciplinary' models, with the latter two considered preferable models of cross-sector interventions working towards the best interests of a child with SEN. Transdisciplinary models are particularly favoured, due to the way that they bring together a collaborative team of professionals from the outset, working with a holistic and 'fully integrated narrative about the child' in order to develop 'an all-inclusive intervention plan, based on an individual child's needs' (Bell et al., 2010 in Castro-Kemp & Samuels, 2022: 4).

4.2 Case study of good practice in cross-sector collaboration from a Local Authority perspective

Sarah Reynolds, Service Manager for SEN Early Identification and Support Service shared what cross-sector collaborative working looks like at The City of Wolverhampton Council:

'Our work is based on a 'come one, come all' approach that is inclusive of all children, regardless of their migration status, and that follows and implements the SEN Code of Practice. Our support services are structured around four specialist teams, comprising 65 staff: a Sensory Inclusion Team (for children who are deaf or have a visual impairment); a Special Needs Early Years Team, (for children 0-5); a Specialist Learning Support Team (a traded service that support schools where they have children who need support with their cognition and learning); and an Outreach Team (teaching staff from special schools who offer outreach support to mainstream schools).

As part of the Special Needs Early Years Team, I chair a monthly multi-agency referral panel supported by professionals from the following areas: paediatrics, speech and language, physiotherapy, social care, educational psychology and specialist teachers. The panel discusses each referral and decides on the best pathway to support an individual child. We also have a joint assessment clinic which allows for a very quick assessment from the paediatrician, speech and language therapist and specialist teacher. These joint assessment clinics are often used to assess children who are new to the city of Wolverhampton and allow us to put support in place quickly.

Any professional or parent can refer into the panel. Health visitors contribute the most referrals and play a key role in the early identification of needs. If a child and family require language support, we will provide interpreters as part of this process. We have done considerable work in recent times to strengthen our links with social work and health and take a restorative, holistic approach that centres working in partnership with families. Most of our support offer at Wolverhampton is offered for free and we are committed to building a bespoke team of support with the child at the centre and that takes into consideration barriers from language, experiences of trauma, and different cultural understandings of SEN.'

5. Insights from research regarding issues related to SEN and NRPF

The British Council-funded *Waiting for School* (2022-2023) project (Puttick, 2024), completed in December 2023, explored language provision and family support for children and young people from newly arrived backgrounds living in temporary accommodation who had the NRPF condition. The project drew together the perspectives of diverse professionals working with newly arrived families in Birmingham, Sandwell, and Wolverhampton across the schools' sector, third sector (including Brushstrokes), and councils. Some current issues that came out of the research in relation to SEN generally, and in some cases SEN and NRPF, are outlined below as well as spotlights of good practice.

(i) Children and young people with English as an Additional Language (EAL) and SEN

Section 20 of the *Children and Families Act 2014* states that if a child or young person who has a home language other than that taught in the school, this alone is not considered as a learning difficulty or disability (*Children and Families Act 2014*). However, the project found that in some cases, schools were pooling EAL and SEN resources and groups of children as if the same thing.

One of the project participants from Wolverhampton City Council's Citizenship, Language and Learning Team that supports schools across Wolverhampton, discussed the work the team had been doing with schools across Wolverhampton to upskill teachers in the differences between EAL and SEN:

"A big focus of our work in Wolverhampton schools is to help schools understand the importance of recognising the different needs associated with EAL and SEND and not to group them together as one thing. We support schools with early identification of SEND and advise that if there is a language need that needs to be addressed first...this allows schools to put appropriate support in place and can be used as part of the Wolverhampton Graduated Approach and referral process for SEND" (Claire Sumner, CLL Teacher Advisor & Wolverhampton Schools of Sanctuary Lead).

(ii) Better support for children with SEN who are waiting for a school place

Additionally, the *Waiting for School* project found that across all three localities, newly arrived children with SEN were waiting longer overall for a school place than children without SEN, often due to schools feeling under-resourced due to the complex funding process for SEN support and the feeling of a lack of expertise within the schools.

Sandwell Council provides a unique provision for newly arrived children, the Sandwell Transition Education Partnership (STEPS), which is underpinned by a holistic education approach to support children and young people for all aspects of UK school life whilst waiting for a school place. In response to the issue of children with NRPF and SEN support needs waiting longer for a school place, STEPS have started providing more tailored support at the centre in the afternoons for children with complex needs:

"We're offering afternoon sessions for our children with complex needs which are play based sessions. We then feedback to the educational psychologist and that forms part of their EHCP assessments for what they are doing in class and what support they need...so it's all evidence building to better support children moving forward" (Tracy Cockayne, former Centre Manager of STEPS).

A free to download resource output for school and third sector practitioners, co-produced by the *Waiting for School* project participants, including activities for families of children with SEN, is available here: <https://wlv.openrepository.com/handle/2436/625345>

6. Insights from frontline practice regarding issues related to SEN and NRPF

In January 2024, Megan Tucker, Children and Families Team Leader at Newbigin Community Trust in Birmingham shared some current insights from her experience of supporting parents/carers of children with SEN. The Trust run a weekly 'Roadmaps' group to support parents/carers at Benson Community Hub in Birmingham. Summarised below are some of the challenges identified by Megan and suggestions for change:

(i) Improving communication

Although there are lots of local grassroots organisations offering support for families of children with SEN, parents/carers are not aware of what support is out there. Similarly, there is a lack of awareness from schools and statutory organisations regarding local support.

(ii) A need for ally-making

Although schools are doing what they can under such restrained resources, the partnership aspect for working with parents/carers in the SEN Code of Practice tends to be missing. Parents are not recognised as experts and often do not have their needs heard, this can result in schools becoming defensive and parents/carers becoming aggressive through frustration. Sometimes teachers feel unequipped/overwhelmed to make changes, yet lots of little adjustments can make a positive difference to a child's experience. Overall, the question which needs to remain at the forefront of partnership work is 'what does this child need?'

(iii) Breaking down assumptions

There tends to be assumptions made from wide ranging agencies regarding children's behaviour and the Trust have found families being evicted from accommodation due to complaints about their children with SEN banging on the wall or making noise. As such there seems to be a lack of awareness around the sensory needs of children with SEN and there needs to be a change in the story that dismantles unhelpful assumptions.

(iv) Addressing inaccessible statutory information

There is a feeling from grassroots practitioners that policy around SEN is inaccessible to parents/carers and teachers, in part due to its lengthy nature. In the Roadmaps group they support parents/carers to produce a 1-page profile to show teachers key aspects of their children's behaviour so that it can become a shared piece of information from which parents/carers and teachers can communicate together.

You can find more information about the Newbiggin Community Trust team and their activities here- <https://newbiggintrust.uk/home/>

7. Better pathways for families who face challenges due to SEN and the NRPF condition – recommendations:

The good practice examples, as well as challenges raised from practitioners and the Better Pathways NRPF lived experience service advisory group have helped to inform the following cross-sector recommendations:

- increase visibility of third sector/grassroots organisations providing local SEN support with advertising in schools, health centres, leisure centres, hotels/temporary accommodation settings.
- provide simplified policy information from statutory organisations to support schools, families, and third sector/grassroots organisations to have access to key information in accessible formats.
- spotlight examples of good practice in SEN for children with NRPF, to encourage support provision for children living in temporary accommodation waiting for a school place.
- support schools to develop closer partnership working with parents/carers of children with SEN with the best interests of the child at the forefront.

8. References

Castro-Kemp, S., & Samuels, A. (2022). Working together: A review of cross-sector collaborative practices in provision for children with special educational needs and disabilities. *Research in Developmental Disabilities*, 120, 104127.

Children and Families Act 2014, c.6. Available at:
<https://www.legislation.gov.uk/ukpga/2014/6/part/3/enacted>

Central England Law Centre. 2023. *Birmingham Children's Trust updated policy on families with NRPF - Financial Support*. Available at: <https://www.centralenglandlc.org.uk/ninancial-support-nrpf-families>

Children's Rights Alliance for England. 2024. *A Guide for Children and Young People in England: Making the Most of the Equality Act 2010*. Available at:
<https://crae.org.uk/sites/default/files/uploads/CRAE-Equality-Act-2010-guide.pdf>

Coram Child Law Advice. 2023. Special Education Needs. Available at:
<https://childlawadvice.org.uk/information-pages/special-educational-needs/#:~:text=Section%2020%20Children%20and%20Families,made%20for%20him%20or%20her%22.>

Equality Act 2010, c.15. Available at: <https://www.legislation.gov.uk/ukpga/2010/15/section/6>

NRPF Network. 2023. Special education needs and disabilities. Available at:
<https://www.nrpfnetwork.org.uk/information-and-resources/rights-and-entitlements/services-for-children-and-families/children-with-additional-needs/special-educational-needs-and-disabilities#>

Puttick, M.R. in-print. British Council ELTRA final report. 'Waiting for school': English Language Teaching resilience for newly arrived children. Report and resource output available at:
<https://wlv.openrepository.com/handle/2436/625345>

UK Government. n.d. *Disability rights*. Available at: [https://www.gov.uk/rights-disabled-person/education-rights#:~:text=An%20education%20provider%20has%20a,like%20specialist%20teachers%20or%20equipment\).](https://www.gov.uk/rights-disabled-person/education-rights#:~:text=An%20education%20provider%20has%20a,like%20specialist%20teachers%20or%20equipment).)