A governing body’s responsibilities for children with special educational needs (SEN)

Introduction
In Hampshire the majority of children with special educational needs attend local mainstream schools where they receive the support they need. Some attend specially resourced provision within mainstream schools which cater for particular needs such as, hearing impairment, physical disability or language impairment. Other children with more severe and complex needs may attend special schools.

Statutory duties and responsibilities

What are the governing body’s statutory duties and responsibilities?
All maintained schools’ governing bodies have important statutory duties towards pupils with special educational needs. Governing bodies are required to decide the school’s policy and approach to meeting pupils’ special educational needs for those with or without Education, Health and Care (EHC) plans.

Governors of community, voluntary and foundation schools have a duty under section 317 of the Education Act 1996 to do their best to ensure that the necessary provision is made for pupils with special educational needs. The most important things the governing body must do are to:

- do its best to ensure that the necessary provision is made for any pupil who has special educational needs
- ensure that, where the ‘responsible person’, the headteacher or the appropriate governor, has been informed by the local authority that a pupil has special educational needs, those needs are made known to all who are likely to teach him/her
- ensure that teachers in the school are aware of the importance of identifying, and providing for, those pupils who have special educational needs
- ensure that a pupil with special educational needs joins in the activities of the school together with pupils who do not have special educational needs. This should be so far as is reasonably practical and compatible with the child receiving the special educational provision his/her learning needs call for, the efficient education of the pupils with whom he/she is educated and the efficient use of resources.

The governing body of a maintained school must:

- report annually to parents on the implementation of the school’s policy for pupils with special educational needs
- have regard to the Special Educational Needs and Disability (SEND) Code of Practice: 0 to 25 years (2014) when carrying out its duties toward all pupils with special educational needs
- ensure that parents are notified of a decision by the school that SEN provision is being made for their child.
School placements

What about children with SEN who don’t have EHC plans?

Children who have special educational needs but do not have an EHC plan must, except in the exceptional circumstances, be educated in a mainstream school. This has always been the case and the Code of Practice on School Admissions and the SEND Code of Practice underline this approach. The governing body:

- must not refuse to admit a child who has special educational needs but does not have an EHC plan, because they feel unable to cater for their special educational needs
- must consider applications from parents of children who have special educational needs but no EHC plan on the basis of the school’s published admission criteria. Such children should be considered as part of the normal admissions procedures
- cannot refuse to admit a child on the grounds that he/she does not have an EHC plan or is currently being assessed for one.

What about children who have an EHC plan?

Where the parents of a child with an EHC plan or draft EHC plan express a preference for a maintained school (any mainstream or special school maintained by the local authority but not a Pupil Referral Unit (Education Centre) or hospital special school), the local authority must agree to name that school in the EHC plan unless:

- the school is unsuitable to the child’s age, ability, aptitude or to his special educational needs; or
- the child’s inclusion at the school would be incompatible with the provision of efficient education for the children with whom he/she would be educated or the efficient use of resources.

Unless a parent indicates that they do not want their child educated in a mainstream school, the local authority must ensure that a child is educated in a mainstream school except where that is incompatible with the efficient education of other children.

Before making a decision about a school, if the local authority believes that the education of a particular child would be incompatible with the efficient education of others, the local authority must first consider whether there are any reasonable steps that the local authority or, if the school in question is maintained by the local authority, the school could take to prevent the child’s inclusion from having that effect. Equally, if the maintained school is of the view that the child’s placement at the school would be incompatible with the efficient education of others, the school must consider whether there are any reasonable steps it, or the local authority, can take to prevent inclusion from having that effect.

Before naming a maintained school in a child’s EHC plan, the local authority must consult the school, and send them a copy of the draft EHC plan. The purpose of the consultation is to find out the Governing Body’s views about the child’s admission bearing in mind the reasons given above. The governing body can delegate this function to the headteacher. The headteacher must report back to the governing body on consultation outcomes at their next meeting. Having taken into account the
views expressed by the Governing Body, the local authority will decide on the school placement. *When a maintained school is named in a child’s EHC plan the school must admit the child.*

**Knowledge and awareness**

**How can members of the governing body increase their awareness of SEN matters?**

- Within school the SEN Co-ordinator (SENCo) will be the best source of information about SEN issues. It is good practice for the governing body to ask the headteacher to arrange for regular information and reports to be received from the SENCo.

- Every school must have a ‘responsible person’ who makes sure that all those who are likely to teach a pupil with an EHC plan are told about the EHC plan. Generally this is the headteacher, but may, in exceptional circumstances, be the chair of the governing body or a governor appointed to take that responsibility. In some schools the role of the ‘responsible person’ may be included under the remit of the SEN Governor.

- All governors, especially SEN governors, must be up-to-date and knowledgeable about the budget delegated to the school, and the school’s arrangements for SEN provision, including how funding, equipment and personnel resources are deployed.

- All governors have access to appropriate SEN related training and are encouraged to attend the governor training modules for SEN run through Hampshire Governor Training. Governing bodies may also wish to organise whole governing body training for themselves and can contact Governor Services for information and advice.

- Establishing a local network of SEN governors to exchange ideas can be beneficial.

- There are many websites that provide valuable SEN including the Hampshire Local Offer at https://fish.hants.gov.uk/localoffer.

**Dealing with complaints and resolving disagreements about SEN**

Governing bodies are encouraged as a matter of good practice to draw up and publicise procedures for sorting out problems quickly.

To prevent problems from developing into major disagreements parents, schools, local authorities and others, should start talking as soon as difficulties become apparent.

**How can governors prevent a concern becoming a complaint and a complaint a disagreement?**

In addition to formal complaints procedures, schools should provide opportunities for informal discussions to seek to resolve differences and difficulties at the earliest possible opportunity. Governing bodies, in conjunction with senior school staff, should consider the following:

- How are parents and pupils encouraged to express their views and raise concerns?
Does the school have procedures for identifying and seeking to resolve concerns raised by pupils or parents at an early stage?

Does the school have a formal complaints procedure and how do staff/governors distinguish between a complaint and a concern or disagreement?

How can staff be made more aware of their role in handling and resolving disagreements?

How does the school monitor and record its work in resolving disagreements and handling complaints?

Who are the most appropriate people to take responsibility for complaints and disagreement resolution?

When should external agencies be involved in seeking to resolve disagreements with parents, for example Support4SEND (formerly Parent Partnership Service)?

**Monitoring and improving SEN provision**

**How does the governing body monitor the provision and practice of SEN?**

The governing body should:

Ensure that the school’s policy and the school’s SEN information report accurately state what and how the school intends to provide for pupils with SEN. The contents of the school’s SEN policy are specified in Chapter 6 of the SEND Code of Practice.

**What does the governing body need to do?**

The governing body needs to:

- request regular evaluative reports from key people in the school such as, the headteacher, SENCo, or SEN governor about the impact of the school’s provision on the progress of pupils with SEN. What is requested will vary depending on the school’s profile of needs and priorities. The focus might be on selected groups, e.g., children with SEN who are travellers, or looked after, or from an ethnic minority group, or those at SEN Support

- analyse external monitoring reports on SEN practice from the local authority, Ofsted, or externally commissioned consultants and ensure that their recommendations are addressed

- views of parents of pupils with SEN, and of the pupils themselves

- evaluate annually the deployment of SEN resources (human and financial) for best value and impact

- ensure that targets for improvement are inclusive of all pupils

- ensure that changes in provision for pupils with special educational needs have a positive impact on their achievement and outcomes

- ensure that staff have appropriate professional development opportunities
• access training in monitoring provision and setting targets which is available from Hampshire Governor Services.

How does the governing body ensure that targets are met?

If the success criteria for the achievement of the target are clearly set, it will be possible to measure whether the target has been successfully met. **SMART targets are:**

• Specific
• Measurable
• Achievable
• Relevant
• Time limited

This approach is helpful when setting the framework for monitoring progress.

Governing bodies may wish to know which member(s) of staff will be responsible for tracking progress towards the targets. They will also need to agree and forward plan with the headteacher their consideration of progress and evaluative reports.

References


**The Special Educational Needs and Disability Regulations 2014**

**The Children and Families Act 2014**

For further information

Hampshire Local Offer [https://fish.hants.gov.uk/localoffer](https://fish.hants.gov.uk/localoffer).

**SEN Service**
Children's Services Department  
Hampshire County Council  
Elizabeth II Court North  
The Castle  
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Email: enquiries.sen@hants.gov.uk  
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**Support4SEND**
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